SENATE—*Wednesday, September 26, 1990*

(Legislative day of Monday, September 10, 1990)

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

The ACTING PRESIDENT pro tempore. Today's prayer will be offered by Father Godfrey Kloetzli, Terra Sancta College, Jerusalem.

PRAYER

The Reverend Father Godfrey Kloetzli, Terra Sancta College, Jerusalem, offered the following prayer:

Let us pray:

Almighty God we ask You to look upon us here. We realize, all too well, our human frailties and imperfections and ask You to help us overcome these.

We ask You to make us rise above all self-seeking and seek the good for our people.

As God who bestows all power on the human race, make us realize that we have been given power to decide issues which will either benefit our fellow citizens and, indeed, the peoples of the whole Earth, or harm them. Give us the insight to know what You want us to do and the courage and conviction to do so.

Let us take for ourselves the prayer of humble Francis of Assisi who achieved so much in his own day and throughout all the days in the nearly eight centuries since his time.

Let us repeat with him:

"Lord make me an instrument of Your peace. Where there is hatred, let me sow love; where there is injury, pardon; where there is discord, unity; where there is doubt, faith; where there is error, truth; where there is despair, hope; where there is sadness, joy; where there is darkness, light.

O divine Master, grant that I may not so much seek to be consoled as to console, to be understood as to understand, to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; it is in dying that we are born to eternal life.

Amen.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from New Jersey [Mr. BRADLEY]; the Senator from New Jersey [Mr. LAUTENBERG]; and the Senator from Maryland [Ms. MIKULSKI], may be recognized for not to exceed 15 minutes each.

The Chair recognizes the Senator from Illinois.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed in morning business for not more than 5 minutes.

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

NOMINATION OF JUDGE DAVID SOUTER

Mr. DIXON. Mr. President, I rise today to announce my intention to vote in favor of the nomination of Judge David Souter to serve on the U.S. Supreme Court.

Before coming to a final determination, I took a number of steps, including an analysis of court decisions and published articles authored by Judge Souter; I reviewed materials presented to me by groups who either supported or opposed Judge Souter's nomination; and, finally, I thoroughly examined the testimony of Judge Souter and witnesses before the Judiciary Committee.

At every step, I found Judge Souter to be a fair, able, and conservative jurist.

The nominee has revealed himself to be open, not rigid, not tied to a death path, but fully aware the Constitution is a living document.

Further, Judge Souter has shown himself to be pragmatic, not doctrinaire, and with a respect for the rights and liberties of the individuals the Constitution protects.

While one never knows how any Justice will decide cases in the future, Judge Souter seems to be a man of character and integrity. His intellect and background are beyond reproach. He well deserves the American Bar Association's most qualified rating.

He evidences a real judicial temperament in the best sense of the word, and I am pleased to support his nomination.

I yield back the remainder of my time.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from New Jersey is recognized for 15 minutes.

THE NOMINATION OF JUDGE SOUTER

Mr. LAUTENBERG. Mr. President, I rise to announce that I will vote against the confirmation of Judge David H. Souter, to be an Associate Justice of the Supreme Court.

The Supreme Court has a profound and lasting impact on the lives of every one of our citizens. It is bestowed with the responsibility to interpret our Constitution, and is vested with the duty to enforce its promises of liberty, and equality, and justice. As it shapes legal rights and liberties from its lofty perch in our scheme of government, the Court shapes the hopes and the futures of average people living everyday lives across our Nation.

Will a victim of discrimination have restored to her the opportunity to reach their greatest potential? Or, will he be forever burdened? Will Americans be protected from government intrusion in their most private, personal affairs? Or will a woman be forced to bear a child against her will—denied the right to make one of the most personal of decisions, guided by considerations of health, counseled by her family, her doctors, and her clergy.

These are not legalistic matters. They are fundamental questions about the kind of lives Americans will lead. These are questions the Supreme Court toils with every day. These are the questions David Souter would face, if confirmed to the Supreme Court.

It is my duty to consider how David Souter would approach those questions.

The Constitution says, in article II, section II, paragraph 2, The President "shall nominate, and by and with the advice and consent of the Senate, shall appoint * * * judges of the Supreme Court."

I consider the duty to review judicial nominations to be one of my most important responsibilities as a Senator.

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

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This is especially true when it comes to the review of nominations to the Supreme Court.

We are here to give our advice. To give or withhold our consent.

First, we must determine whether a candidate has the personal qualifications to sit on the highest court in the land. Is the person intelligent, honest and learned? Does he have the temperament to sit in judgment of his fellow citizens?

Does he have experience in the law? Does he apply the law with a sense of compassion for those it affects? Is his judging done in the abstract, or is it tied to real lives and real circumstances?

Judge Souter's career has been focused in the State court system of New Hampshire. He has not been called upon often to rule on matters of Federal constitutional rights. Yet, I have no doubt that he has the intellectual capacity and the integrity to sit as a Federal judge. I am confident that, if not seated on the Supreme Court, he would continue to be an asset to the Federal Court of Appeals for the First Circuit, to which he was recently confirmed.

Yet, we must go beyond the personal qualifications of the candidate and consider whether he will inject life into the rights and liberties of our people, enshrined in our Constitution and laws. We must be guided by our concept of what America and its laws should be, and what kind of Supreme Court we should have to interpret those laws, and to give life to the rights and liberties we hold so dear.

We have a great responsibility. Just as the President is empowered to make nominations, we are entrusted with the power to reject them. Our roles are equal. I do not accept the argument some would make, that there should be some presumption in favor of a nominee. Quite the opposite. I believe the burden is on the nominee.

We sit in review of someone who would sit as one of nine members of a separate branch of Government. This is not some post within the executive branch, some post in the President's own administration with a fixed term. For that, perhaps we can permit more flexibility and tolerate more doubt.

We sit in review not of some nominee to a district or circuit court. For that, we have accepted a wider diversity of personal views. Judge Souter was confirmed to the Court of Appeals. We can rely on his obedience to precedent and the word of the higher courts.

We sit in review of someone nominated at a very special time in the history of the Court, a time when the Court is sharply divided on basic questions of constitutional rights. The confirmation of a single justice could set the Court down a path that has the most profound consequences. Thusly, we are called upon, perhaps, to apply even greater scrutiny to this candidate than we have to others.

I have looked carefully at the candidate's views—as he has expressed them as a government lawyer and a judge, and as a witness before the Judiciary Committee in his confirmation hearings.

Based on that record, I am not satisfied that Judge David Souter would amply protect the rights and liberties of the individual that lie at the very core of our Constitution.

I start with his most general statements of how he approaches the task of interpreting and applying the Constitution. I am concerned that Judge Souter would not apply a broad, expansive interpretation of the Constitution, shaping and stretching it to meet today's understanding of liberty and today's expectations of our people.

Judge Souter has said that his task as a judge, who is bound to interpret the Constitution, is not one of discovering the original intent of the framers. Yet, he concedes little in recognizing that the framers, despite their brilliance, could never have imagined or intended the application of the Constitution to the specific cases presented by modern America.

Rather, Judge Souter says that his task is one of discovering original principles or original meaning, which in turn, can be applied to modern cases. Judge Souter would attempt to determine the principle that the framers had in mind, examining historical materials and traditions. I am concerned that when the search is completed, the principle of liberty that would be found would be the principle envisioned then; not the principle of liberty envisioned and expected today.

My doubts about what Judge Souter had to say generally about interpreting the Constitution are only heightened by what he had to say, and refused to say, specifically, about the right to privacy.

We live in a changing world. Human relations are quite different from what they were 200 years ago. The notion of privacy extends far beyond privacy within a marital relationship. It extends to control over basic questions of the right to choose to proceed with an unintended pregnancy.

Judge Souter spoke at some length about the decisions of the Court which established the right to use contraception. But, in recognizing a marital right of privacy, and a right to determine whether or not to conceive a child, he traced his conclusion to an historical respect for the marital relationship. The framers were sensitive to the notions of marital privacy.

What about the rights of a woman once there is conception? What confidence can we have that these rights will enjoy any recognition under the method of interpretation set out by Judge Souter?

Mr. President, Judge Souter chose to refuse to answer questions that he believed touched too closely on the right to chose to terminate a pregnancy, as outlined in Roe versus Wade. That was his choice.

But, in so doing, he left unsaid his position on a fundamental individual right—the right to privacy. He refused to concede that a right exists that gives a woman the ability to choose whether or not to bear a child.

Mr. President, we would be troubled if a nominee came before the Senate and refused to recognize the right of free speech; or the right to assemble; or the right to be free from unreasonable searches and seizures. We should be just as troubled by Judge Souter's refusal to recognize a broad right of privacy inherent not in the marital relationship, but inherent in the individual.

Judge Souter's record as an attorney general, as a judge, raise questions about other important issues as well. Questions can be raised about his appreciation of the depth of the problem of racial discrimination in our Nation, and the steps that need to be taken to prevent it and to remedy it.

In some cases, we are asked to excuse statements he made or positions he took, because he was acting as an advocate for his Governor and his State, as attorney general. Yet, questions remain.

As I review the totality of the record of Judge Souter, I regret that I cannot vote to confirm him. He is a talented, even brilliant individual who has dedicated himself to a life in the law. Nevertheless, his approach to constitutional interpretation is one that moors him too tightly to the past. His testimony before the committee left blank spaces where rights and liberties should be written large and clear.

This is not a conclusion I have reached lightly or easily. I respect Judge Souter's integrity and his intelligence. But, for the reasons that I have outlined, when the question is presented to the Senate, I will vote against his confirmation to the Supreme Court.

I yield the floor.

Mr. BRADLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey [Mr. BRADLEY].

NOMINATION OF JUDGE DAVID SOUTER

Mr. BRADLEY. Mr. President, there is very little that the Constitution asks this body to do that cannot be undone. But there is one responsibility by which each of us as a U.S. Senator leaves a nearly indelible mark on the fabric of this Nation, not just as a government, but as a people. That is our role of "advice and consent" in the

confirmation of the nine Justices of the U.S. Supreme Court.

Our role in determining which nine fallible human beings should hold these unmatched powers over the direction of our society is a power we share with the President. It is nonetheless one that we must take very seriously.

The history of this century shows that the Court can be a force of reaction. For decades, the Court denied such basic freedoms as the right to criticize war or to organize a union, and such basic measures of justice as the minimum wage. The Court can also light the path of progress toward an open, free, and fair society, as it did when it ruled that segregated schools were unconstitutional or that people cannot be forced to pay a tax in order to vote. Most of what we do in this body involves shaping a part of America through the instrument of legislation; the Court, on the other hand, defines possibilities for an entire Nation.

Mr. President, the nomination that is presently before us requires, I believe, even more thoughtful scrutiny than most. President Bush chose to nominate a man whose views on most of the fundamental principles of constitutional jurisprudence were unknown. Judge David Souter has spent most of his career in the courts resolving basic conflicts among individuals. While this experience is in some ways preferable to that of a nominee whose whole life has been spent on a law school faculty, it does require us to demand answers to some very relevant questions that, for another nominee, might be answered by his record.

There are no clear guidelines about what a nominee to the Supreme Court should or should not talk about. The distinguished chairman of the Judiciary Committee put it quite succinctly to Judge Souter in saying that the committee reserved the right to ask any question and granted Judge Souter the right to refuse to answer any question. Some Court nominees have answered every question on every topic in excruciating detail, while others have eschewed all but the most general discussions of principle. I understand that a nominee might conceivably refuse to answer almost every question other than the biographical, on the grounds that it might become relevant to a case before the Court. Of course, I would not hesitate to vote against such a nominee, and I'm sure that a majority of my colleagues would join me. Every Senator understands that different circumstances require different standards of candor from the nominee. In the current circumstance—a nominee with no record on constitutional issues—a high degree of candor is required, but more importantly, a nominee must be consistently candid. It is not appropriate to discuss some pending legal questions, such as separation of church and state, in great detail, and then to decline to answer when the questions move to other areas of the Constitution.

Judge Souter provided the Judiciary Committee with thoughtful, thorough answers about several major areas of the law. He described the principles by which he would adjudge cases of discrimination based on race or gender. He described his views on the separation of church and state, the first amendment, and capital punishment. He was even willing to discuss specific cases, such as Lemon versus Kurtzman, which established a standard for church-State cases, even though there is a motion for rehearing pending before the court in that very case.

Before the hearings, I was disturbed to learn that Judge Souter had asserted that there was no need to examine the racial composition of New Hampshire's State government work force because he knew without checking that there was no discrimination in any department. And his statement that the rights of less-educated citizens somehow harmfully diluted the votes of the better educated betrayed a serious confusion about democracy's virtues. But by speaking in detail about these statements and committing himself to sustaining the precedents that outlaw discrimination in hiring and literacy tests for voting, Judge Souter offered assurance that the complacency and the elitism implied by his earlier statements would not inform his judicial thinking. Had Judge Souter not made clear that he appreciated at least the legal precedents regarding civil rights, I would not hesitate to urge the Senate to reject his nomination. But the method of analysis that he committed himself to in the Judiciary Committee hearings I have no reason to doubt will be his method if he sits on the Court. The point is, Mr. President, where he was not silent, I am prepared to take Judge Souter at his word.

There was one area, however, about which Judge Souter refused to describe his method, principles, or even his basic instincts. And that area happens to be the one that is of deepest concern to millions of Americans and the one on which the Court will almost certainly set a permanent direction for the Nation in the next few years. It is the question of a right to privacy.

Judge Souter said only one thing about the right to privacy—that married couples possessed such a right as described in the Griswold decision. Does this right belong to individuals or does it somehow inhere in the institution of marriage? Judge Souter would not answer. Does this right apply only to the purchase of contraceptives, as in Griswold, or does it extend to other deeply personal choices about reproduction? Judge Souter would not answer.

All of us know that, given the balance on the Supreme Court, we are being asked to give Judge Souter virtually sole authority over whether the Court will continue to recognize a right to privacy from the State's presence in our personal lives. All of us also know that one of the inseparable aspects of a right to privacy is the right for a woman to choose whether or not to have an abortion. Indeed when the question of the right to privacy was raised in the Judiciary Committee, Judge Souter appeared to presume that it was nothing more than a euphemism for the right to a safe and legal abortion. We further know that Judge Souter is the nominee of a President who made a clear political commitment to his party and to the American electorate that he would seek to wipe out that right. Is Judge Souter the agent by which George Bush seeks to keep his campaign pledge to make abortion illegal, or is he the agent by which George Bush seeks to break that pledge? Mr. President, the answer remains unclear.

What is clear is that the most immediate consequence of the Court's rejecting the right to privacy would be to deny millions of women the right to choose and to return us to the day when illegal, back-alley abortions put the lives of thousands of women at risk. That is a chance I am not willing to take.

I would also remind my colleagues that the right to privacy is no more a euphemism for abortion than the right to free speech is a euphemism for a particular statement. The right to privacy is a basic promise of American life, one that we will all intuitively want to see protected, particularly as advances in technology give the State vast new powers to intrude into the most private recesses of our lives. Without some notion of the right to privacy, judges will have an inadequate method by which to decide these cases fairly and humanely. Because the right to privacy will be the fulcrum of the relationship between the individual and the State as we approach the 21st century, we cannot entrust it to a jurist who, while he says he believes it exists, cannot make clear where it is found, what it means, and to whom it applies.

Mr. President, these are the fundamental issues for our time and for the future. To confirm a nominee who refuses to discuss them is to surrender our obligation to offer thoughtful advice and knowledgeable consent on the nomination of Justices who will hold awesome power over our lives. I will not do that and I will vote against the nomination of Judge David Souter.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Maryland [Ms. MIKULSKI].

CONFIRMATION OF JUDGE DAVID SOUTER

Ms. MIKULSKI. Mr. President, among the most significant and far reaching votes a Senator casts is a vote on the confirmation of a Supreme Court nominee. Of the thousands of votes I will cast as a U.S. Senator, the vote on a Supreme Court nominee exercising the constitutional right of advice and consent is the only vote that I cast that is irrevocable and irretrievable.

A vote for confirmation of a Supreme Court nominee is a vote for a lifetime appointment to the highest court of our land. Once confirmed, a nominee bears no burden of accountability, unlike the President, unlike a Cabinet official in which we exercise other advice and consent functions.

And thus, it is incumbent upon this body, charged with the constitutional responsibility to advise and consent on such nominations, to ascertain beyond any reasonable doubt each nominee's fitness to serve and commitment to the law's most basic guarantees of individual rights and equality for all Americans.

As I see it, it is the paramount responsibility of the Supreme Court to protect and preserve the core constitutional values on which this great Nation stands: An independent judiciary speaking for freedom of speech, freedom of religion, the right to privacy, and equal protection of the law.

Ours is a government of limited power and a society wherein rights and freedoms reside in the individual. Through the Constitution, the guarantees of equality and liberty on which this Nation was founded are translated into the rule of law by which we live. And it is the Supreme Court that breathes life into the promise that is the Constitution.

In deciding how I will vote on this nomination, I used three criteria.

First, is the nominee competent?

Second, does the nominee possess the highest personal and professional integrity?

Third, will the nominee protect and preserve the core constitutional values and guarantees that are central to our system of Government, such as freedom of speech and religion, equal protection of the law, and the right of privacy?

I have considered the nomination of Judge David Souter as I have previously considered other Supreme Court nominations using exactly this same criteria. I have carefully reviewed and considered the hearing record, Judge Souter's testimony and the testimony of several of the other witnesses who appeared before the committee.

First, on the issue of competency, there is no doubt that Judge Souter is professionally competent.

Second, on the issue of personal integrity, there is no doubt that Judge Souter possesses personal integrity, living a quiet New England life of going to church and visiting his mother.

But missing from the record is a demonstrated commitment by Judge Souter to the Constitution's most basic guarantees of individual rights and equality under the law for all men and for all women. I must, therefore, oppose the confirmation of Judge Souter to the Supreme Court.

As I reviewed the hearing record, I took particular notice of two very striking patterns and I think contradictory patterns: First, Judge Souter was willing to discuss at great length many of the areas of the law that he, as a Supreme Court Justice, would likely to be called upon to consider.

He either had views or previous cases, like Brown versus Board of Education, or he would offer to the committee judicial principles that would guide his decisionmaking.

We now know, for example, that Judge Souter agrees that the death penalty is not prohibited by the Constitution's ban against cruel and unusual punishment. So we would at least know on that one point how he would rule on death penalty cases, or at least what would be the framework for his judicial reasoning.

We also know that Judge Souter is troubled by some of the Court's recent decisions on freedom of religion, something I know, Mr. President, you and I are deeply concerned about, and that he prefers the approach taken by Justice O'Connor over her colleagues. These are but two of the many areas of constitutional jurisprudence that Judge Souter felt it appropriate to discuss.

At the same time, there were certain areas of constitutional law that Judge Souter refused to discuss. To put it quite simply, Judge Souter refused to talk about whether, and how, the Constitution protects the women of the United States of America. He was either silent or he was vague, or he was evasive.

Mr. President, that is not good enough for us to be able to form an opinion on his nomination. When someone is evasive, when someone is vague, or he is deliberately silent, under those circumstances would you hope for the best? Absolutely not. So, therefore, we must fear the worst because why else would he be so uncharacteristically silent, evasive, or vague?

He refused to discuss how the Constitution's guarantee of equal protection under the law protects women against gender discrimination, either in the workplace, or in the school house.

He refused to discuss the fundamental right of privacy so central to our system of limited government that it protects a woman's right to decide whether and if to bear children, and on other areas of privacy, protecting family life.

The Senator from New Jersey [Mr. BRADLEY] outlined it in excellent reasoning, and I will not elaborate. I am going to associate myself with his remarks.

Let me just go on a few minutes more to say that Judge Souter's refusal to discuss the status of women under the Constitution stands in stark and disappointing contrast to the comprehensive discourse on the Constitution.

Mr. President, think of someone who can come before a committee and for 18 hours face tough, grueling questions from a variety of Senators, and he could dazzle the people either in the committee room or watching C-SPAN, that he could do this without a note. This is a man of intellect. This is a man of ability. So, therefore, you would think when Senators asked questions on this issue of privacy, on this issue of gender, there would have been an equally forthcoming separate commentary.

Well, it did not happen.

Mr. President, the Supreme Court is the court for all the people of America; not just for one race, not just for one gender, not just for one religious belief. It is for all the people.

My colleagues and I serve in this body as representatives for all the people. We are here because of the consent of the governed.

Mr. President, I respectfully submit that it is simply not acceptable for a nominee to the Supreme Court to refuse to disclose his views on equal protection against gender discrimination and not to elaborate in any detail the implicit right to privacy.

I truly believe we are all created equal and that each of us is endowed with inalienable rights to life, liberty, and the pursuit of happiness. And I humbly stand before this body, the first Democratic woman elected to the Senate in my own right, as testament to the struggle for equality for women and all Americans.

Mr. President, in 200 years of American history only 16 women have ever been U.S. Senators. I say that not as a statistic but to show how hard it is to gain equality. It is only within this century that women gained the right to vote. Certainly, as we go forward to the 21st century we, the women of America, should believe that the Supreme Court would at least believe and be willing to posit the Declaration of Independence and the Bill of Rights in our behalf.

We have come too far, sacrificed too much, and worked too hard in the

cause of freedom, liberty, and equality to turn a blind eye to this nominee's deliberate failure to tell the people of America whether the Constitution protects their privacy and guarantees to all men and all women equality under law. We, you, the American people, deserve better. We deserve the best.

TRIBUTE TO ASA T. SPAULDING, SR.

Mr. SANFORD. Mr. President, with the passing of Asa T. Spaulding, Sr., on the morning of September 5, 1990, the Nation and the State of North Carolina lost one of America's significant citizens of the 20th century. I lost a true friend of many years. Asa Spaulding was one of North Carolina's most distinguished and remarkable sons. He was an individual whose great achievements in life were great achievements for others, a truly unique trait.

A former president of North Carolina Mutual Life Insurance Co., the largest minority-owned financial institution in the world, Asa Spaulding gained an outstanding reputation for his financial skill and business acumen. Elected as Durham County's first African-American commissioner, he established a standard of public service for all races. By example and encouragement, he helped to calm and shepherd the community through the emergent times of improving but strained race relations in the 1960's.

Asa Spaulding's commitment to education, especially those neglected or excluded, led him to serve on numerous boards of colleges and universities. Most notably, he served as the chairman of the board of trustees at Howard University in Washington, DC. Many colleges and universities awarded him honorary degrees. In 1969 Duke University honored him as "one of the State's great citizens, a master in [his] own profession, and the constant servant of other men in their need."

Presidents Eisenhower, Ford, and Carter all took note of the accomplishments of Asa Spaulding and called on him for public contributions. President Eisenhower named him vice chairman of the UNESCO delegation to India. Presidents Ford and Carter called upon Asa to serve in special delegations to Africa and Central America. His influence extended greatly beyond his community of Durham, which he cared about so deeply. As a statesman, he continued to think deeply about the future of our society and to transmit the traditions of peace and justice that he advocated and practiced throughout his life.

To his wife Elna, his daughter Patricia, his sons Asa Jr., Aaron, Kenneth, and his other family members, I extend my condolences. I mourn the loss while rejoicing in the fulfillment of life of such a good and faithful servant of the Lord. I offer this statement as a testament to and celebration of his life.

Asa T. Spaulding, Sr., 1902-90.

THE NOMINATION OF JUDGE DAVID H. SOUTER

Mr. SANFORD. Mr. President, along with most of my colleagues, I have had to resolve in my own mind what the role of the Senate should be in exercising its constitutional responsibility to advise and consent to Presidential nominations to the Supreme Court. Whereas a candidate for a major elective office is expected to reflect the majority will, the Supreme Court Justice has a different function in the balance of our governmental system, that of protecting the dissident and minority views in our pluralistic society.

The office of Supreme Court Justice is a unique position in American Government. We provide our Justices lifetime tenure and entrust them with vast potential to rule our lives and ways. Consequently, the questions about Supreme Court Justices should not be related to what his or her decisions will be, but rather to how these decisions will be reached. Certainly those who vote on the confirmation of a Justice might well examine prior decisions and writings, and may quite justifiably vote pro or con based on this evidence. It is appropriate, in my judgment, to inquire about a candidate's impartiality of mind, but not to seek his or her commitment to vote a certain way on a specific issue, although such a commitment is legitimately sought from a congressional candidate.

As Senators, we have had to define for ourselves the criteria each would personally apply to these nominees. After much thinking, reading, and listening, I determined that for me the fundamental criterion was scholarship defined by integrity. I would like to find also the qualities of compassion, practicality, extraordinary intellect, broad education, and an optimistic faith in America. But true scholarship is the best guarantee we have of a Justice's future performance. All other attributes pale in comparison.

Scholarship is definable and recognizable. Intellectual integrity is its essence. Scholarship is not just the accumulation of knowledge, and certainly not the accumulation of academic degrees. True scholarship is the relentless, uncompromising search for truth. Like a laser beam reaching for the unknown in the fine structure of atoms, the scholar reaches sharply through the maze of facts, fiction, propositions, and prejudice, always probing for the ultimate truth, eschewing half-truths, and false conclusions.

The intellectual honesty of true scholarship and the concomitant intellectual capacity that will measure up to the challenge are the indispensable attributes that we should consistently demand, with no compromise, of a Supreme Court Justice. Three years ago, I based my decision on a candidate for the Supreme Court on the scholarly approach to decisions, not on the nominee's political ideology or on pressure from groups either pleased or displeased by his nomination. This test will be the one on which I also have based my decision on Judge Souter.

I have had the opportunity to meet personally with Judge Souter, to talk with him, to listen carefully to his confirmation hearings before the Judiciary Committee, to review his writings, and to consult with some of my trusted friends in his home State. I came away with one overriding impression that Judge Souter is a person of tremendous intellectual integrity. That he respects the Constitution, not only that which is explicit, but also the individual rights and freedoms which are implicit. I believe that he loves the law and that he will listen with an open mind, always cognizant of the fact that, to quote him, "at the end of our task some human is going to be affected, some human life is going to be changed." That he is, in the truest sense of the word, a scholar.

I apply no litmus test to Judge Souter's views. I have applied no litmus test in past confirmations. Unless fate intervenes, David Souter will serve for a generation. What litmus test will inform us as to how he might decide a crucial national issue in the year 2020? Rather, I believe he will faithfully examine the law, and I trust him to reach his conclusions by the path of scholarship illuminated by his intellectual capacity and personal integrity. I see in David Souter signs of the qualities of such former Justices as Oliver Wendell Holmes and Hugo Black. He just may be our next truly outstanding Justice. I will vote, with considerable confidence, to confirm him.

REMOVAL OF INJUNCTION OF SECRECY

Mr. SANFORD. Mr. President, as in executive session,

I ask unanimous consent that the injunction of secrecy be removed from the Treaty on the Final Settlement with Respect to Germany and a Related Agreed Minute, Treaty Document No. 101-20, transmitted to the Senate today by the President; and I ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to

be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I submit herewith, for Senate advice and consent to ratification, the Treaty on the Final Settlement with Respect to Germany and a Related Agreed Minute, signed by the United States, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990. I transmit also, for the information of the Senate, a report of the Department of State with respect to this Treaty.

The Treaty that I am submitting today is the culmination of 6 months' negotiation among its six signatories in what has come to be called the "Two-plus-Four" forum, established for this purpose at Ottawa in February 1990. This agreement will end the artificial division of Germany and Berlin; it provides for the full withdrawal of all Soviet forces over the next 4 years; and it terminates all remaining Four-Power rights and responsibilities for Berlin and for Germany as a whole. It thus creates the basis for the emergence of a united, democratic, and sovereign Federal Republic of Germany, capable and ready to assume a full and active partnership in the North Atlantic Alliance, the European Community, and in the many other fora for international cooperation to which the Federal Republic of Germany has already contributed significantly.

The Treaty makes clear that the current borders of the Federal Republic of Germany and German Democratic Republic shall be the final and definitive borders of a united Germany. All the provisions relating to Germany's border with Poland were worked out with the participation and approval of the Government of Poland.

The Treaty specifies that the right of a united Germany to belong to alliances with all the rights and responsibilities arising therefrom shall not be affected by any of its provisions.

The Treaty provides for the withdrawal of all Soviet troops from the territory of a united Germany by the end of 1994. The Treaty also provides for the continued presence of British, French, and American troops in Berlin during the interim period at the request of the German government. During this period the German government shall have complete freedom regarding the stationing of territorial defense units of its own armed forces within the territory of the former German Democratic Republic, and these armed forces shall remain outside the integrated NATO military command structure. Following the departure of Soviet troops by 1994, there shall be no remaining limitations regarding the location of German armed forces throughout Germany and their integration with NATO structures. Non-German Allied forces and nuclear weapons systems shall not be stationed or deployed within the territory of the present German Democratic Republic. The Agreed Minute, for which I am also seeking your advice and consent, provides a special rule for application of the term "deployed."

The Treaty contains a number of assurances provided by the Federal Republic of Germany and the German Democratic Republic on behalf of a united Germany. Among these are a reaffirmation of their renunciation of nuclear, biological, and chemical weapons, and their stated undertaking to reduce the personnel strength of the German armed forces to 370,000 within 3 to 4 years.

Finally, the Treaty provides for the termination of all remaining Four-Power rights and responsibilities for Berlin and Germany as a whole.

I would also like to draw to the attention of the Senate the texts of three letters that were exchanged on issues arising in the context of the unification of Germany (enclosed as attachments to the report of the Department of State). The first is a letter from Secretary of State Baker to Foreign Minister Genscher of the Federal Republic of Germany dated September 11, 1990; the second is a letter from Foreign Minister Genscher and Prime Minister and Foreign Minister de Maiziere of the German Democratic Republic to their counterparts in the Two-plus-Four negotiations dated September 12, 1990; and the third is a letter dated September 18, 1990, from Foreign Minister Genscher to Secretary Baker.

In their letter of September 12 to their counterparts in the Two-plus-Four negotiations, Foreign Minister Genscher of the Federal Republic of Germany and Prime Minister and Foreign Minister de Maiziere of the German Democratic Republic formally convey several additional assurances. Among these are their declaration that the constitution of a united Germany will protect the free democratic order and provide the continuing basis for prohibiting parties and associations with National Socialist aims. In his letter of September 18 to Secretary Baker, Foreign Minister Genscher also makes clear that the Government of a united Germany accepts responsibility for the resolution of unresolved claims against the German Democratic Republic, both of American citizens, and of Jewish victims of the Nazi regime. In this letter he commits his government to seek, shortly after unification, to provide expeditious and satisfactory resolution of claims of Jewish victims of the Nazi regime against the German Democratic Republic. In this same letter he states that the Federal Republic of Germany will, shortly after unification, resolve through negotiations with the United States Government the claims of U.S. nationals that were previously under discussion with the German Democratic Republic. The commitments contained in these two letters are further evidence that the Government of the united Germany will sustain and build on the exemplary record of the Federal Republic of Germany in promoting democratic values.

The Treaty represents a major achievement for our German allies, who have not forgotten the past or the role Germany once played in the horrors of 1933–45, but who have demonstrated over 4 decades of steadfast support for democracy and the Western alliance what the world can expect from the united Germany.

The Treaty is also a tribute to the courage and the determination of the people of Germany to achieve unity in peace, freedom, and concord with their neighbors.

The emergence of a free, united, and democratic Germany, linked to the United States and to its European neighbors by indissoluble ties of friendship, common values, and mutual interests, and ready to act as a full partner within a broader community of democratic nations, has been an enduring goal of American foreign policy for over 40 years. Seldom has any President had the privilege of submitting for the Senate's advice and consent an agreement which so fully realizes our national purposes. This agreement is the result of decades of steadfast effort and resolve on the part of past Presidents and Congresses, and our Allies. It is an achievement of which we can all be proud.

It is wholly fitting that Germany formally and irrevocably achieve its unified status at the earliest possible moment, unfettered by Four-Power rights, shared by the Soviet Union, which are now outmoded and unnecessary. I therefore ask the Senate to act expeditiously in giving its advice and consent to ratification of the Treaty and the Related Agreed Minute.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1990.*

THE DEFICIT

Mr. BOSCHWITZ. Mr. President, I rise to speak about the budget negotiations and the budget deficit, my hope that the negotiators will conclude, and my opposition to the idea of extending the deadline.

Mr. President, I want to urge on the negotiators. I urge them on to come to a conclusion. I want to state on the floor I object to the idea of an extension. We are kind of a 2-minute group. As they say in football and indeed in basketball—which I know, Mr. President, you are very familiar with—most of the action occurs in the final 2 minutes. Whether or not you win or lose is whether or not, as Vince Lombardi used to say, you are conditioned and really trained for that 2-minute drill and you can get it going. In the last 2 minutes, victory or defeat is normally decided.

If we extend until October 20, or October 13, or even a single day or a single 3- or 4-day period, the bewitching hour of when we are going to have to finally come to a conclusion on the budget, when the sequester occurs or when the lack of appropriated funds really bites—if we extend those periods, it is just going to be the final 2 minutes at the end of the period that we give as an extension, so it may as well be now. If we are to govern and if we are to show some capability in governing, we have to cross that Rubicon now. We simply cannot wait any longer.

I am willing to vote for any reasonable package. I recognize the package that is going to come down is not going to satisfy me, just as it will not satisfy any other Member of this body in its entirety. The package is going to contain some severe constraints on agriculture. That is the base of the economy in my State. There is no question that is going to bite, that it is going to hurt. It is going to have an impact on the elderly through medicare. It is going to hurt other programs.

But, in reality, the programs all are growing in expenditure, and over the years they will grow but somewhat less than we expected them to grow, and that is OK with me. That is the only way we are going to be able to bring about a balance in the budget.

It will not surprise me, Mr. President, if we go through this same exercise again a year from now. Look at the deficit figures. I have before me the deficit figures for this fiscal year. In the month of August the deficit was $52.754 billion—almost $53 billion. That is not a record, but it is awfully close to a record, and it is absolutely extraordinary that at this moment we find it so difficult to balance the budget when in a single month we have a deficit in excess of $50 billion.

Thus far this year, fiscal year 1990, which is closing in just a few days, the deficit stands at $241.716 billion, an absolute record. The deficit has gone up from last year by about two-thirds.

Why? The answer clearly is spending. This year, spending has risen at 12.7 percent over last year. Income, taxes, revenues have risen only 4 percent over last year. So the deficit, as I have mentioned, is just getting worse.

Those are terrible figures, Mr. President—$241.7 billion in deficit thus far this year. Our negotiators are having problems coming to a conclusion. Because the deficit is so much higher than anticipated, it certainly would be no surprise to me—I expect we will be going through this same drill next year. We will be putting together another package because the deficit will not be sufficiently reduced by the $500 billion over 5 years.

So, Mr. President, I urge on the negotiators. I say this simply cannot continue, these extraordinary deficits about which I have spoken so often here in the Senate, regretfully not to much avail.

When I came to the Senate 12 years ago, or shortly thereafter, I devised the so-called fair play budget. The fair play budget allows every program of the Federal Government to rise by a small percentage each year to let the revenues catch up. This year revenues are growing only by 4 percent. But if we look at the last 30 years, revenues have grown at an average of 8.6 percent. So, quite clearly if we hold spending down to 2 or 3 percent as a growth figure, we will be able to catch up over a period of a few years. That, in the end, is what has to be done.

Some people say it is a little bit mindless just to apply a formula to each function of the budget, to each program even. To some programs we simply cannot apply a total formula—I understand that. We have some opportunities in this budget round of not having to apply that kind of formula to some things because defense is going down. But there is no question that there does have to be somewhat of an arbitrary approach.

If we say we are going to discuss each one of the programs and we are going to apply logic and we are going to come to a conclusion and come to an aggreement what should be done in that program, then the kind of situation we have now, that I have experienced year after year after year in this body, occurs. We never come to an agreement. People are so far apart about what should be done in various programs that nothing happens.

So I appeal to the negotiators to go forward, and I say to them I will vote for any reasonable plan that they bring back, and I will give them a lot of latitude. I think solving the budget crisis is really the overriding domestic economic issue that faces the Senate of the United States.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from North Carolina [Mr. SANFORD].

CAPITAL GAINS

Mr. SANFORD. Mr. President, I count on you to close my remarks when a few minutes have elapsed.

I simply want to reflect on what my distinguished colleague has just said because, it seems to me, we have wasted a great deal of time worrying about the budget and fighting over a minor issue, when we think of the good of the Nation, the minor issue being the President's insistance that we have in this budget agreement a provision to reduce taxes for capital gains. Why he pursues this stubborn position in view of what could happen if we did not have, finally, a budget resolution, I do not know. But I think we will have a budget resolution. What worries me is that it will not be a budget resolution that goes to the heart of our need, which I think is to reduce the national debt, to quit piling up the national debt. The present budget tentative agreement, what seems to be coming into shape, would be a 5-year plan, according to the President, that reduces the deficits by a total of $500 billion during that 5-year period.

The trouble is, if we look at the accumulation of the deficit, the accumulation of the growth of the national debt during that same 5-year period, it will be $1.7 trillion. So if we take away the $500 billion, we still will have in that 5-year period, an accumulation of deficit, an increase of the debt, of $1.2 trillion as a minimum.

So we have a problem quite beyond this that I hope we can resolve before we leave, during this session. I thank the Chair and yield the floor.

APPOINTMENT OF CONFEREES TO H.R. 4487

The ACTING PRESIDENT pro tempore. Pursuant to the authority previously granted, the Chair appoints the following Senators as the conferees on H.R. 4487.

Under the previous order, the Acting President pro tempore [Mr. KOHL] appointed the following Senators conferees on the part of the Senate: Mr. KENNEDY, Mr. HARKIN, Mr. PELL, Mr. ADAMS, Mr. HATCH, Mr. DURENBERGER, and Mr. COCHRAN.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. PELL. Mr. President, I am deeply disappointed that the Senate failed to get enough votes to allow

consideration of S. 1224, the Motor Vehicle Fuel Efficiency Act of 1990. Sometimes it takes just a few votes to block serious action on a matter that should receive immediate attention, such as the Motor Vehicle Fuel Efficiency Act of 1990. That is what happened in the Senate today.

Events in the Middle East continue to drive the price of oil higher. It is up to Congress to reduce our Nation's thirst for foreign oil and protect our economy from the type of shock waves caused by the likes of people such as Saddam Hussein. Unfortunately, this effort has received a setback, but I believe it is only a temporary setback. The author of the Motor Vehicle Fuel Efficiency Act of 1990, Senator RICHARD BRYAN, has vowed that we will be back to fight this battle again and I join him in that promise and pledge my help in achieving the very worthy goal of energy independence.

JOHN D. HARDY

Mr. INOUYE. Mr. President, recently a very special staff member of the Senate Commerce, Science, and Transportation Committee retired. After 22 years of loyal and conscientious service, John D. Hardy joined the law firm of Wilkinson, Barker, Knauer & Quinn.

John came to the Senate Commerce Committee staff in 1968 after graduating from Columbia University Law School and 8 years at the Federal Communications Commission. Initially he was responsible for communications issues, but in 1970 John became staff counsel to the Subcommittee on Tourism. Prior to that time, there had never been a subcommittee that was specifically responsible for tourism.

After the energy crisis in 1973, the subcommittee initiated the first comprehensive review of Federal travel and tourism policies and activities. As the staff director for the national tourism policy study, John Hardy assisted the Policy Committee in completing that landmark study. As a result of the desire of the Senate Commerce Committee to be more fully informed on travel and tourism issues, the committee established the Travel and Tourism Industry Advisory Council. John Hardy served as general counsel to that industry council.

In addition to his travel and tourism responsibilities, John Hardy also served as merchant marine counsel from 1978-87. During that time, comprehensive changes were made in the laws governing international shipping.

While the committee members and I personally will miss John Hardy's professional assistance and advice, I am pleased that he is moving on to new and exciting challenges. We all look forward to his success in these endeavors.

INOUYE SPEECH

Mr. COHEN. Mr. President, it is a privilege for me to rise in this Chamber and recognize the work of our distinguished colleague Senator DANIEL INOUYE. Senator INOUYE has been one of Congress' most thoughtful and erudite voices in foreign affairs, and I stand today to recognize his particular commitment in that field to the State of Israel.

Several weeks ago, Senator INOUYE delivered a most eloquent commencement address before the parents and graduating class of Brandeis University. In his address, Senator INOUYE traced the history of the Jewish people and their struggle to create and maintain a Jewish state, all in the face of nearly insurmountable odds. Senator INOUYE also reviewed the current state of affairs in the Middle East, Israel's importance to the United States, and the need to limit the proliferation of weapons in this volatile but vital region.

Mr. President, Senator INOUYE's remarks were—as always—insightful and to the point. I believe that his remarks deserve the attention of my colleagues and others who are concerned about the situation in the Middle East and the security of our ally Israel. I therefore ask unanimous consent that Senator INOUYE's remarks be entered into the RECORD.

The test of the address follows:

COMMENCEMENT ADDRESS OF SENATOR DANIEL INOUYE, MAY 20, 1990

Class of '90, Godspeed to all of you. To the parents, guardians, this is your day because without your love and patience, your children would not be here. And to the faculty, for your willingness to share your wisdom, knowledge and talent, we have before us, in truth, the leaders of America. Congratulations to all of you!

My remarks this morning are rather difficult to make, but I believe they must be made. I wish to share with you my thoughts as Chairman of the Senate Committee on Defense Appropriations. It is my committee that has the responsibility of deciding how much we spend for the defense of the United States. As a result of the extraordinary events in Eastern Europe, coupled with the crumbling of The Wall, the assassination of some of the Communist leaders, the dismantling of the Warsaw Pact, and the extraordinary words of Gorbachev—his *glasnost* and *perestroika*—we find in America a great spirit of peace and euphoria—something that we have not seen for a long, long time in this land. And today in the Congress of the United States, among my colleagues, the favored words are "peace dividends." In fact, some of my colleagues have already spent these "dividends."

We are seriously considering reducing our spending for defense by 25 per cent. However, I should tell you that whatever cuts we make will be done with great caution because, notwithstanding the rhetoric of peace that we hear, these are the facts. The production of ICBMs, the production of nuclear submarines, the production of supersonic bombers in the Soviet Union are on schedule. They have not in any sense slowed down. In fact, the uncertainty of the economy, the uncertainty of the future of Mr. Gorbachev, coupled with the growth in their strategic forces, causes all of us on this committee to be very cautious. For example, while we in Congress are debating whether we should have mobile ICBMs, the Soviets have not only already developed, but have deployed approximately 300 mobile ICBMs throughout the Soviet Union. In the assessment of every member—not only of the United States, but of all NATO allies—of all of the intelligence agencies, the strategic capability of the Soviet Union today is much, much greater than it was before Mr. Gorbachev came on the scene.

Assuming that everything goes well, that Mr. Gorbachev's health keeps up and he is successful in bringing about an economic restoration, and that his promises are kept, there are many other areas of deep concern to us—areas in the Third World. We should not lose sight of the fact that there are dangerous areas such as the Korean peninsula, India and Pakistan, and the most dangerous of all—the Middle East. It is dangerous because we, the policy-makers of the United States, have failed—or are possibly reluctant—to look upon the Middle East with the cultural and historic sensitivity that I believe is necessary in dealing with the problems of the Middle East. All of us have heard the words "survival," "national paranoia," and "distrust of others" whenever we refer to Jews. And I believe that from the perspective of Jews and Israelis, these words have much validity. And that must be acknowledged and involved in our policy-making, but unfortunately, it has not been so.

I believe I should give you a brief explanation of my background, and I think it might help you understand why I am so concerned about the Middle East. I come from the Pacific, and in the neighborhood of my childhood days there were no Jews. I had never met one. The first time I had heard the word "Jew" was in Sunday school when my Sunday school teacher said, ". . . and the Jews killed Jesus Christ." That was the first time. The second time was in a hospital bed in 1945. The guns were silent, and a young man took the empty bed next to me. He, too, was an amputee. And he began telling me an extraordinary story of unbelievable evil. He was the contingent that liberated Dachau. He spoke of bodies that were piled up like cord wood. He spoke of the stench in his nostrils that would never leave him. He spoke of the sunken cheeks and sunken eyes. I couldn't believe that! It was not conceivable to me that any person or persons could conceive such evil and such horror, especially from a nation that brought forth great music, great art, great science. And so I began my study—and my study continues. And although my study of the Jewish people was not conducted with the professional help of rabbis and learned scholars, one thing became apparent early on—that this Hitler holocaust was just the latest in a historic chain of continuous Jewish holocaust and misery. It wasn't anything new.

Those of you who know the history of the Jews will tell you of the days of slavery in Egypt; they'll tell you of the Babylonian Diaspora and the Roman Diaspora when the temple was demolished, and of the three million Jews in the City of Jerusalem, over a million were slaughtered and over a half a million sold into slavery. Then they'll tell you of the first Crusade when Pope Urban II told the assembled knights, "Go ye out and sanctify yourselves before going into the Holy Land by killing the Jews in

Europe." And you should know that villages and towns were decimated. More people were killed in Europe on the first Crusade than in the Middle East itself. Then came Pope Gregory, who came out with that astounding encyclical—"Jews are children of Satan"—and the killings continued. Then the Inquisition—and the killings continued. And the Black Plaque—and the Jews were blamed, and the killings continued. And ghettos were formed all over Europe—and the killings continued.

So when Hitler came along, I think that should have been anticipated. He was just trying to finish the work that was started many centuries ago. And it is extraordinary that with a history like this, the Jews did not end up as footnotes like the Chaldeans or the Babylonians or the Assyrians. Somehow they survived. Some say it's cultural identity, religious and spiritual identity and integrity. Well, whatever it is, they survived. And throughout it all we would like to believe that the United States and our hands were clean. But I think it is time that we remind ourselves that in our relationship with the Jewish people of the world, very few hands have been clean.

In 1939 there was a ship called St. Louis—it was an American ship. And on board that ship were 930 men and women whose passports had the red stamp "Jew" on it—the red "J". They sailed to the United States and our Coast Guard cutters came out and stopped them. They were not permitted to land or to dock. We refused to assist them to land in Havana, and so they had to return to Europe. About 600 had to return to the Continent, and it is said that most of them ended their sad journey in the ovens. And now we are told that our leaders during the war were aware of these camps, and, if they wanted to, could have destroyed them. Though we destroyed many cities, we did not destroy these camps.

Then came the United Nations partition of Palestine in 1947. We, history says, supported this. But yet, within a week, we imposed an embargo on arms, and we approved the British selling arms to the Arabs, and so the Israelis—the new citizens of this new state—had to struggle through this conflict. But then they survived once again. And in May of 1948, when they declared themselves to be a state, I joined many others in applauding this fact. And in 1950 when they began selling Israeli Bonds, I became a salesman. My first purchase is still on my wall. I decided to just keep it there to remind myself.

Then the Camp David Accords of 1978—I think most Americans would hail this as one of the great events in the history of Israel. In some sense it is a great event, but it was a very, very expensive event—also historic. I am not an historian, and I've tried my best in studying books to learn whether any nation that has conquered lands adjacent to theirs has ever given up this land voluntarily—only Israel. We refused to give up New Mexico, Arizona, California and Texas to the Mexicans because it is part of our national security. But we got Israeli to agree to give up the Sinai, and when they did that, they gave up an oil field that was already providing close to one-half of the energy needs of Israel, but we said, "don't worry, we'll take care of you." There were two air bases on the Sinai and we said, "don't worry, we will rebuild them for you." So when the time came—yes, we did assist them in building the air bases—but at the 1978 rates. At the time they began building the air bases, inflation had gone up 300 percent. And the major reason for this inflation was the Saudi oil crisis. Remember, we promised the Israelis, but we had our problems at home, and so we told the Israelis, "you take care of yourselves." It is conservatively estimated that the return of the Sinai cost Israel at least $12.0 billion, and for a small country, that is a lot of money.

Well, with this history and this background the word "survival" becomes very real to the Israelis. The word "distrust" becomes very real to the Israelis. "Paranoia" is no imagination to them, because history has shown them that maybe it would be wise to be a little distrustful. And our national policy-makers have somehow either deliberately exploited this or have failed to recognize the importance of history in our dealings with other people.

For example, in 1980, we in the Congress pleaded with the President, "don't sell AWACs to the Saudis—they don't need it." And we suggested that if this sale had been carried out, with this history in the background, the Israelis might feel compelled to purchase expensive counter-weapons systems. And so, in my capacity as Chairman of the Foreign Operations Committee, I called the Secretary of State. He sent the Deputy over to testify. And I asked him a very simple question. "If we transferred the AWACs to the Saudis, how do you expect the Israelis to react or respond?" His answer was a very simple one, "The Israelis can buy more F-15s." And they did. The cost, nearly $2.0 billion. And we wonder why they are having economic problems.

Well, let's get back to the Middle East of today. If you add the following ingredients to this little history that I have related to you, little ingredients such as Yassir Arafat; the P.L.O.; Iraq, with its nuclear and chemical warfare development; the wealth and sophisticated weapons of the Saudis; I can understand why the Israelis are concerned. Ten years ago, military experts throughout this world would have told us that the Israelis could adequately defend themselves and survive in any war. At that time, the population of Israel was 3,820,000 and of that number, 90 per cent were Jews. And the Arab population, not including Egypt, was 119,134,000—a slight difference. Ten years ago the Israeli military consisted of 165,000 active and 460,000 in the reserves—a total of 625,000. And the Arab military, not including Egypt, consisted of active 1,227,000, and in the reserve, 782,000—a total of over 2,000,000. Two million vs. 625,000, and all analysts said, "the Israelis can handle themselves."

Today the picture is different. There are sophisticated weapons and the following numbers—the Arab population today, not counting Egypt, is 161,146,000. They have increased by nearly 50,000,000. The Israelis are now 4,542,000—of that number, 83 per cent are Jews. The military picture is as follows—keep in mind that 10 years ago the active forces of Israel numbered 165,000—today 141,000. On the other hand, the Arab active forces are 2,613,450 and the reserves are nearly 2,000,000—a total in excess of 3.5 million. And if you add Egypt, you add another million troops.

Add to this the following footnotes of national and international concern that somehow indirectly participate in this total picture. First, the Soviet Jews. For a long time it has been the policy of the United States to needle the Russians, to egg them on, and as one of our presidents said, "Let my people go." That was the policy of the United States. Huge rallies were held in the mall. Politician after politician stood there, pointing their fingers to the Soviet Union—"Let my people go." Well in 1986, the total number that left the Soviet Union was 914. And of that number, 22 per cent went to Israel; the rest came to the United States. And in 1987 the number grew to 8,155, and nearly 25 per cent went to Israel. The rest came to the United States. In 1988, 18,000 left the Soviet Union, and of that number, 11 per cent went to Israel—the rest to the United States. And suddenly Gorbachev came onto the scene and he says, "O.K., we'll let them out." In 1989, 71,000 decided to leave, and of that number, 12,000 went to Israel and the rest came to the United States. And the American government said, "Oh, oh, that's too many people." Bingo! We closed our doors. We used the Soviet Jews when it was handy politically.

And so what is happening today after we closed the doors? The first month of this year—January—nearly 5,000 left the Soviet Union and 97 per cent have to go to Israel because our doors were closed. Then in February, nearly 6,000 left the Soviet Union—99 per cent had to go to Israel because our doors were closed. And in March, 7,300 left the Soviet Union, and 99.9 per cent had to go to Israel because we closed our doors. This has caused the Israelis a problem of monumental proportions just to house these people. And we anticipate this year over 100,000 Soviet Jews, and within 10 years, 500,000. The housing costs alone will be close to $5.0 billion. Talk about being in debt! And notwithstanding our commitment and our promise that all we could afford was $400 million in guarantees—that's not spending; we are just guaranteeing a loan. We are not giving anything; Israel has to pick up the tab.

And the other footnote that is of special concern to Americans and to the world is the so-called West Bank and the Golan Heights. Many Americans, many of my colleagues are saying, "return the West Bank." Now those of you who know the configuration of the West Bank would know that there is a neck less than 11 miles between the West Bank and the Mediterranean, and this was part of the partition. But this portion, unlike Lithuania—which the Soviets themselves claim they got illegally—it was not a matter of conquest like the West Bank. They were not threatened by the Lithuanians like the Jews were threatened by the Arabs. We have one policy that says, "Mr. Gorbachev, we hope you can leave the place, even if we know you took it illegally." But on the West Bank we say, "Leave"—when no other country other than Israel has ever given up land. And I can tell you that if the West Bank is given away, that's the end!

Well, we Americans are extremely fortunate. We have really never experienced war in the real, horrible sense. With the exception of the British invading us during the days of the Revolution and the Japanese landing on the Aleutians in World War II, we have never really tasted occupation or invasion or the wholesale destruction of our lands. Our neighbors to the North and South are friendly—they don't pose any threat. To our East we have the Atlantic, to the West, the Pacific. And so the words "survival" and "paranoia" are not part of our lexicon. But may I suggest to you, my fellow Americans, that if we disregard the Middle East, we will do so at our peril, because our national interest—and that is our concern—our national interest would be best served by a stable and non-violent Middle

East. And I would suggest to you that this stability is best achieved by a strong and viable Israel, our most dependable ally, and the only democracy in that part of the world.

As the first Chairman of the Intelligence Committee, by necessity, I had to work with the intelligence agencies of this world, and part of my responsibility dealt with working with the Mossad. I can assure you, pound-for-pound, what we have received from Israel is much more than what we receive from the rest of NATO. As a taxpayer, I can tell you that we Americans have received not only our money's worth, but a bargain from Israel.

In a few days, the two most powerful Presidents will meet in the United States—President Gorbachev and President Bush—to discuss matters of grave importance, not only to America, but to the world. And I would hope that at that time the Middle East will be very high on their agenda. And I hope that steps can be taken whereby the super powers and all the arms manufacturing countries of this world can agree to militarily fence in the Middle East region, and place upon all those countries there an embargo on all transfers and all sales of chemical, biological and nuclear weapons, their components and their delivery systems. Because, if we fail to do this, it may help to escalate the present confrontation. The present confrontation, though it may be bitter, is primarily of minor skirmishes and the rhetoric of hate. But it could escalate, if our messages are mixed, into greater skirmishes and violence. And if it should ever become regional violence, then, whether we like it or not, I feel certain that the super powers will be involved. Then all that we have been working for, and all that we have been praying for, will have been for nought, because we failed to see the potential danger in the Middle East.

And I pray, like many of my colleagues, that God will grant our world leaders, especially Bush and Gorbachev, not only the wisdom, but the courage—yes, the courage—that will be necessary to bring about and maintain peace. Peace, though we want it very much—much more than anything else—is not easily achieved, and it takes great courage to hang on to it. I just hope we will have that courage. To all of you, Godspeed.

HONORING HAWAII'S MACADAMIA NUT INDUSTRY

Mr. AKAKA. Mr. President, I rise today to bring to my colleagues' attention a recent festival held on the big island of Hawaii which celebrated the State's No. 1 diversified agricultural crop, the macadamia nut.

For most tourists who visit the Aloha State, there is an overwhelming temptation to sample the many macadamia nut products—cookies, pies, candies, salted nuts, roasted nuts, coffees—all of which have helped to maintain Hawaii's dominance as the world's largest producer, processor, and seller of macadamia nuts.

I am proud to note that the State's 1989-90 macadamia nut growing season is recording a booming harvest of 50.5 million pounds even though some growing areas have been adversely affected by weather conditions. Last year, an additional 400 acres of macadamia trees were planted, about the same amount as in 1988, which has brought the total acreage to 22,300. In fact, the 1989 value of this crop was nearly $45 million, making macadamia nuts Hawaii's third largest crop after pineapple and sugar.

No wonder the city of Hilo, HI, the commercial center for macadamia nut production, hosted the 1990 Macadamia Nut Festival. A driving force behind reestablishing the festival was J.W.A. "Doc" Buyers, one of Hawaii's acknowledged business leaders.

"Doc" Buyers served as chairman of the board and chief executive officer of C. Brewer & Co., Ltd., the world's largest grower, processor and marketer of macadamia nuts from 1982 to 1986. He is now the chairman, president, and chief executive officer of Buyco, Inc., which bought out C. Brewer & Co. in 1986.

Mr. President, I am extremely proud of Hawaii's macadamia nut industry because its cultivation, processing and sales activities have created new economic opportunities for the State and for the Island of Hawaii. As one who has long championed the need to diversify Hawaii's agricultural crops, I see our macadamia nut industry as a true leader, both at home and abroad.

At a time when Hawaii's macadamia nut business is expanding, however, foreign producers are selling inferior products under the guise of Hawaiian-grown macadamia nuts. With the macadamia nut becoming an international commodity, it may be necessary to apply the same standards to macadamia nuts as we do to many other U.S. agricultural crops. To address this problem, I have asked representatives of Hawaii's macadamia nut industry to assist me in the review of this matter.

Mr. President, the macadamia nut is truly the world's most perfect nut. Although it is considered to be the Rolls-Royce of nuts, its sweet meat can be afforded by all.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time allocated for morning business has expired.

Does the Senator wish to proceed further in morning business?

Mr. PRESSLER. No. I wish to proceed on the bill, if it is agreeable with the manager. There has now been an agreement reached——

The PRESIDING OFFICER. Will the Senator withhold.

If there is no further morning business, under the previous order morning business is officially closed.

FAMILY PLANNING AMENDMENTS OF 1989

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senate will now resume consideration of S. 110 which the clerk will report.

The bill clerk read as follows:

A bill (S. 110) to revise and extend programs of assistance under title X of the Public Health Service Act.

AMENDMENT NO. 2884

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself, Mr. LEVIN, Ms. MIKULSKI, Mr. GRAHAM, Mr. MCCAIN, Mr. HELMS, Mr. HUMPHREY, Mr. COHEN, Mr. GRASSLEY, Mr. WARNER, Mr. PACKWOOD, Mr. KASTEN, Mr. SYMMS, and Mr. CONRAD, proposes an amendment numbered 2884:

At the end of the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitiated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Personnel Management may use a statistical sampling method to

make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress, all reductions which would have occurred if this section has been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

Several Senators addressed the Chair.

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

Mr. ADAMS. 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. HUMPHREY. 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. HUMPHREY. Mr. President, after consulting with the managers on the Democratic side, I ask unanimous consent that I might offer remarks on an amendment which I have not yet laid down, at the conclusion of which I will suggest the absence of a quorum so that no further business with respect to the Pressler amendment can be transacted.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. If the Senator will withhold, he does not, under these circumstances, need unanimous consent to proceed to speak.

Mr. HUMPHREY. Very well. I will just proceed, at the conclusion of which I will suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. HUMPHREY. Mr. President, during this interregnum during the consideration of the Pressler amendments, I thought I would put some time to better use than a quorum call by offering my remarks on an amendment which I shall offer this morning, which is not yet pending, but which I hope will be pending a little later this morning. I am going to be offering an amendment to this bill whose purpose is to facilitate the appointment of an independent counsel to investigate Members of Congress if, in the judgment of the Attorney General, evidence exists with respect to unlawful activity by Members of Congress in connection with the savings and loan fiasco.

That is the fundamental purpose of the amendment, Mr. President, which I shall offer later this morning.

The amendment would facilitate the appointment of an independent counsel under the Ethics in Government Act to investigate whether any criminal wrongdoing by an upper level Federal Government official was involved in the savings and loan debacle.

The S&L disaster is probably the biggest scandal in American history. The costs of this scandal will easily run to $500 billion and it may go as high as $1 trillion. Who can tell at this point. But we all know that is enormously expensive.

One trillion dollars represents $4,000 for every man, woman, and child in America. The American people are presently upset about this matter and they have the right to know the extent to which this $4,000 bill per citizen is the result of back-room deals and illicit influence, and they have the right to be assured that the culpable parties, if any, are brought to the bar of justice.

On June 22, the junior Senator from Colorado [Mr. WIRTH], spoke, I believe, for most of us when he said that—

> There are hundreds of thousands * * * of Americans who are deeply concerned about this, deeply concerned about the fact that they have lost an enormous amount of money * * * there is a sense of urgency.

The distinguished senior Senator from Illinois [Mr. DIXON] correctly noted that this is perhaps the largest scandal in our Nation's history—

> A scandal * * * that will cost the people twice what the Marshall plan cost; twice what we spent to rebuild the World.* * *

Writing in the Chicago Tribune, Senator DIXON went on to state that, "This country is being robbed blind and the thieves are getting away scot-free." In another editorial, on June 26, 1990, the same paper cast even further light on Congress' failure to extricate itself from this crisis: "Instead of working together to clean up the mess, the politicians in Washington are bickering over who's to blame." The editorial went on to quote economist Edward Hill of Cleveland State University, who figured that every man, woman, and child in Illinois would lose $700 per person; Wisconsin: $600 per person; Indiana: $657 per person; Michigan: $787 per person; Connecticut: more than $1,200 per person; and Massachusetts, New Hampshire, New Jersey, and New York about $1,000 per person each. It now appears that Mr. Hill may have underestimated the problem.

Michael Gartner, writing on August 9, 1990, for the Wall Street Journal, put it this way:

> If every charitable gift from every company, every foundation, every living human, and the will of everyone who died this year were earmarked to bail out the savings and loan industry, it wouldn't be enough to handle the costs even without worrying about the interest on those costs.

Mr. Gartner also stated that:

> The entire costs of World War II, in current dollars and including service-connected veterans' benefits, is about $460 billion, that's $40 billion less than the bailout.

A Congressman from Illinois, Congressman FRANK ANNUNZIO, went even further. "The American people," said Congressman ANNUNZIO, "want to see the S&L crooks in jail, no ifs, ands, or buts. The taxpayers have been sentenced by the crooks to 40 years of hard labor and forced to pay $500 billion as a result of the fraudulent operators.* * * It is time to put the S&L crooks in jail * * *."

From the charges and countercharges being thrown about by various Members of the Senate and the House, culpability goes far beyond the presidents and financial officers of the bankrupt savings and loans. Without discussing any of these charges—which I do not intend to do—let me say that I hope Members of both parties will be eager to clear that air once and for all with respect to criminal responsibility for this costly and unnecessary scandal.

In fact, Congress has responded to the biggest scandal in American history by pointing fingers at everyone else. Responding to a recent congressional proposal to establish a commission to dig out the full story of the S&L debacle, the New York Times in July rightly stated that such a commission would "only provide cover for sitting politicians who are embarrassed by their negligence, if not complicity."

Mr. President, an independent counsel, which my amendment will seek, could go, fairly and impartially, after criminally culpable parties in both the legislative and executive branch, without distinction on the basis of party, philosophy, or branch.

In an editorial in July, the Washington Post endorsed the notion of an independent counsel to investigate the savings and loans scandal, pointing out that a resolution in the House to this effect is cosponsored by over half of all Members.

While the crime bill—the fate of which is now very much in question—does contain a larger investigative mechanism, the importance of my

amendment is that it focuses on corruption in government. The American people have a right to know specifically whether elected or appointed officials have engaged in criminal conduct which has brought on this financial crisis, even if it were to pass, the earlier Senate proposal would barely touch this issue.

The Attorney General currently has the authority to ask for an independent counsel to investigate Members of Congress under 28 U.S.C. 591(c), if he determines that prosecution by the Justice Department would "result in a personal, financial, or political conflict of interest."

So the Attorney General already has this power and, therefore, I hope that no Member is going to argue about the constitutionality of what I propose.

Mr. President, under the independent counsel statute, as it now exists, the Attorney General may not seek the appointment of an independent counsel to investigate a Member of Congress unless there is a conflict of interest between the Department of Justice and that Member of Congress. Under the amendment which I shall offer, that limitation is removed. Under my amendment, if the Attorney General feels there is evidence sufficient to request the appointment of an independent counsel to investigate a Member of Congress, he may request the appointment. He need not first find that there is a conflict of interest between his office and that Member of Congress.

On the other hand, it is important to point out, nothing in the amendment compels the Attorney General to request the appointment of an independent counsel. The Attorney General still retains the discretion as he now exercises under existing law, that is, he need not invoke the independent counsel procedures unless he finds "Reasonable grounds to believe that" violations of law has occurred.

Mr. President, it is appropriate to extend the independent counsel's provisions to criminal violations by Members of Congress in certain cases because it will eliminate the perception of politically motivated prosecutions. No matter how fairly the Justice Department handles these cases, there will always be suspicion that prosecutions of Members of Congress have political overtones. Placing such cases in the hands of an independent counsel directly addresses that concern.

In short, Mr. President, it is time for us to put up or shut up. If Congress is serious about getting to the bottom of the savings and loan scandal and the extent, if any, to which Members of Congress were unlawfully involved, I hope that the Senate will adopt my amendment.

Mr. President, the amendment which I shall offer later at an opportune time consists of three sections. The first is a title; the second is a section on findings. I want to recite those findings because I do not think any of them will be contested.

Congress finds—

(1) that the savings and loan debacle is the largest financial crisis in our Nation's history, and that the cost to the American taxpayer of that debacle may be in excess of one trillion dollars;

(2) that fraud and other criminal activity—including criminal activity by federal officials and officeholders—may have contributed significantly to the saving and loan industry's losses and will cost taxpayers billions of dollars;

(3) that Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(4) that at least some of those fraudulent officers and managers attempted to perpetuate their fraudulent activities through the application of political influence on the appropriate regulatory authorities;

(5) that officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(6) that investigating and prosecuting criminal activity related to the savings and loan crisis—including unlawful efforts to exert political influence on regulatory authorities—will help send an important message of "never again" to those involved in the financial industry;

(7) that the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed.

And the third section, Mr. President, amends the Ethics in Government Act in a number of ways to accomplish the purposes I have laid out here; namely, to remove, with respect to Members of the Congress, the requirement that there be a conflict of interest between the Justice Department and Members of Congress before the Attorney General may seek the appointment of an independent counsel in those cases where a preliminary investigation leads him to believe that unlawful activity on the part of Members of Congress exists or existed.

In other words, it removes the requirement that there be a conflict of interest between the Justice Department and Members of the Congress before the Attorney General may request the appointment of an independent counsel.

I think this is a worthwhile amendment. I think it is one long overdue. I think it is one urgently in need of adoption. However, I expect opposition to its adoption. It may well be that the leadership will offer a second-degree amendment to mine when mine is pending that will have the effect of neutralizing or gutting my amendment.

I hope that will not be the case. I hope that we can have a vote on the merits. I think Members ought to vote on the merits of the amendment and have an opportunity to do so without the issue being obscured or obfuscated by a second-degree amendment. I think the American people are entitled to a vote.

So when it is pending, Mr. President, I do hope the leadership will permit a vote on the amendment itself without a second-degree amendment. Naturally, the leadership or any Senator has a right to offer a second-degree amendment. But I think its intent will be clear in this case. This is a good, tough amendment. This is a tough-on-Congress amendment, a law-and-order amendment as it applies to Congress in connection with the savings and loan scandal. We ought to do it. If we do not, the rollcall vote would certainly make interesting reading for the press and for our constituents.

Mr. President, again my amendment is not now pending. I will offer it later. The Pressler amendment is pending. I now suggest the absence of a quorum.

Mr. DASCHLE. Will the Senator withhold for just a moment?

Mr. HUMPHREY. Yes, I withhold.

AMENDMENT NO. 2885 TO AMENDMENT NO. 2884

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. ADAMS, Ms. MIKULSKI, and Mr. DECONCINI, proposes an amendment numbered 2885 to amendment No. 2884.

At the end of the amendment add the following:

(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the President, the Vice President, and any excecutive officer at a position of level I of the Executive Schedule under section 5312 of title V United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level I of the Executive Schedule.

Mr. DASCHLE. Mr. President, let me first commend my distinguished colleagues, the Senator from Arizona and the senior Senator from South Dakota, for offering this amendment. It certainly makes the right statement about what we, as Members of Congress, must do if we face the prospect of telling many people in this country that they are going to have to accept the consequences of sequestration.

We have already indicated that as a result of sequestration our staffs are going to be cut dramatically. The original amendment, would provide that the salaries of Members of Congress and the Senate be cut. My

amendment simply says if it is good for Congress, it has to be good for the executive branch as well; that the Vice President, all executive officers at the position of level V or above of the executive schedule under 5316 of title V, and any executive officer or employee in the Executive Office of the President who, on the date of the enactment of this section, is paid at a rate equal to or above the pay rate for a position at level V in the executive schedule, would also be included.

It is just a question of equity and fairness. Members of Congress and high-level officials of the executive branch should be treated no differently than those who inspect our meat products, guide our airplanes, or provide service to Social Security recipients.

Amending the proposal offered by the Senators from Arizona and South Dakota places policymakers in the same category as all Federal employees who deliver essential Federal services. I hope we can move the amendment expeditiously.

I yield the floor.

Mr. PRESSLER. Mr. President, I commend my colleague. I think this is an excellent improvement on the amendment. It shows that our thinking has expanded to include the members of the Cabinet and the President.

The effort we are trying to make here is that if there is a sequestration we want Members of Congress to be treated the same as others in the Federal Government. I think the logic is very good to extend the provision to members of the Cabinet and the President. It is very ironic that the people making the decisions in the budget negotiations have exempted themselves from the penalties which a sequester would impose upon many of our fellow citizens.

Also, I might point out it is not just civil servants who would be hurt by a sequester. Many other sectors of our economy would be affected by sequestration. Indeed the State budget of the State of South Dakota is 47 percent Federal money. Farmers' CRP payments could be affected. Medicaid and Medicare and almost every other program in the United States, except the salaries of Members of Congress and Cabinet officers and the President, could be affected by a sequester.

So, Mr. President, I wholeheartedly welcome this amendment and I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. McCAIN. Mr. President, I ask for a voice vote on the Daschle amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. McCAIN. Mr. President, we urge a voice vote on the Daschle underlying amendment and then we would like to further debate the Pressler amendment and will be seeking a record vote.

The PRESIDING OFFICER. Is there further debate on the Daschle amendment?

Mr. DASCHLE. I ask unanimous consent Senator DECONCINI be added as consponsor.

Mr. KENNEDY. I would like to be added as cosponsor.

The PRESIDING OFFICER. Senator KENNEDY and Senator DECONCINI will be added as cosponsors.

Mr. ADAMS. I would like to be added as cosponsor.

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

Mr. ADAMS. I thank the Chair.

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

The amendment (No. 2885) was agreed to.

AMENDMENT NO. 2884, AS AMENDED

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota [Mr. PRESSLER].

Mr. PRESSLER. Mr. President, I shall be very brief because there are other Senators waiting to speak on this amendment. I spoke on it last night and covered the basic provisions.

This, as I said, would place Members of Congress on the same basis as others if a sequestration occurs. October 1 is fast approaching. That is the beginning of our new fiscal year. If we do not have a budget agreement by that date, the first stage of what is called a sequestration goes into effect. That means certain mandatory cuts will occur.

Also, our civil servants, our Federal employees, have received letters of furlough, or notification of furlough. This has been very demoralizing to many of our fine civil servants and in this situation we all should be in the same boat. I think this amendment, as amended, puts the decisionmakers in the same category as the civil servants and, indeed, the many private citizens whose work is affected by Federal programs and services, during sequestration.

That is the purpose of this amendment. Congress should be included in any sequestration. Congress is responsible for this budget. Members of Congress should be the ones held accountable for their own inaction.

Specifically, this amendment would cut the pay of Senators and Congressmen by a percentage equal to the largest or highest of either the across-the-board uniform percentage reduction in Gramm-Rudman-Hollings, currently estimated at 32.4 percent or, B, the percentage pay cut of any civil service or other Federal employee whose salary is affected by the sequestration.

The legislation will go into effect on October 1, 1990, the same day as the October 1, 1990, sequestration will begin if it is required. The minimum cut for a U.S. Senator would be at least $31,882 or more if any agency exceeds the current 32.4 percent.

We as elected officials should set an example, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the floor manager, Senator KENNEDY.

Mr. KENNEDY. I know of two further speeches. Hopefully, we will be able to move along. I know that is the desire of the Senator.

I ask unanimous consent that no second-degree amendments be in order to the amendment of the Senator from South Dakota.

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

Mr. PRESSLER. I would also like to get the yeas and nays ordered. I do not care when we vote, later today or whenever the measure occurs.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN].

Mr. McCAIN. I thank both my colleagues from South Dakota for their involvement in this amendment. I think Senator DASCHLE's second degree amendment that forces the sequestration to apply to both President and senior executive positions in the executive branch is entirely appropriate.

I congratulate the senior Senator, Senator PRESSLER, for his amendment which calls for the Congress to share in bearing the burden of sequestration if that eventuality should arise.

As we all know, within the next few days there is the possibility, or in the view of some, the probability, of the ax—and it is an ax—of sequestration falling on the American people.

Unfortunately, that draconian measure will not be equally divided. It will fall primarily on 1.1 million Federal employees. It will certainly cause extreme discomfort to the lifestyles of many tens of millions of Americans. But as far as an economic impact, it will directly affect those men and women who have served our country with dedication and skill, and frankly played no role in bringing about the situation that exists today. The dilemma in which we are now mired is a result of the gridlock over our inability to resolve the budget crisis.

I see no reason why we in the legislative branch should not share in the pain and the financial burden. Indeed, perhaps maybe some would argue if we were sent on furlough we might have seen more significant progress than we have yet witnessed. I personally subscribe to that theory, but I am not sure that that will take place.

In all seriousness, Mr. President, the men and women who serve our country are facing a very uncertain future. They face the prospect of reduced sal-

aries, furloughs, and family dislocation. Every one of these people have expenses, Mr. President. They have mortgages to meet, car payments to make, they have bills to pay. They had every right to anticipate a certain level of income in order to maintain their lifestyles as they had planned them. Right now, we are placing that lifestyle in jeopardy.

Perhaps this one Senator—and perhaps my friend from South Dakota—cannot prevent that. But what we can do is assure these men and women that we will be sharing an equal burden of pain if it is inflicted on them.

I do not intend to go into a long explanation of what caused this crisis we are in, nor do I have a recipe for its resolution. If I did, I probably would be over at 1600 Pennsylvania Avenue rather than here on the floor at this moment.

I do note, with some interest, the budget summit could now, perhaps, be called the incredible shrinking budget summit. I believe we are now down to only a few participants. Perhaps when we get down to one, we will come up with a viable solution.

I also note with some interest that the summiteers continue to meet under less than unpleasant circumstances. I suggest perhaps the summiteers could convene at some remote spot without the creature comforts they presently enjoy, and perhaps that will provide some motivation to reaching a solution more rapidly.

Mr. President, the fact is, the status quo is an unacceptable embarrassment. Last Sunday, as I left church, I was approached by several irate parishioners not endowed with the spirit of the service which we had just received, who basically asked: What is wrong with you guys?

I did not have the temerity to remind the questioners that we are not all of one gender. But the fact is, Americans all over this country, especially our Federal employees, are asking that quesiton: What is wrong with you guys? They have every right to ask that question, and unfortunately I have been so far unable to provide them with an answer. But at least I think we can provide them with some comfort and solace, that if the axe, the meat axe of sequestration, does fall on them, that we will also share in the pain and burden.

I thank my friend from South Dakota, Senator PRESSLER, for bringing this amendment up. I think it will receive a unanimous or near unanimous approval.

I ask unanimous consent that Senator DOMENICI be added as cosponsor. I ask Senator SYMMS also be added as a cosponsor, Mr. President.

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

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

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, the pending amendment provides an opportunity for some discussion about the forthcoming potential sequestration and the problems that will bring to the United States. The amendment by the distinguished Senator from South Dakota [Mr. PRESSLER] is a step in the right direction, but I do not think it goes nearly far enough in underscoring the nature of responsibility by the Congress and by the executive branch.

When the distinguished Senator from Arizona talks about the Congress sharing in the pain, I suggest to him that we were sent to Washington to be leaders, not to be sharers and not to be followers, and that the ultimate outcome, if there is a sequestration, will make the Congress and the President and all elected officials the leaders in taking the pain, which would be just.

The consequences of a sequestration, Mr. President, would be absolutely disastrous and if, in fact, it does occur, I believe that the American people are going to throw 537 elected officials right out of Washington. It is not going to be a matter of a reduction in pay; it is not going to be a matter of embarrassment, which I share with Senator McCAIN's pronouncement; but it is going to be the last straw, the straw that breaks the camel's back of America when you add it to the savings and loan fiasco and the problems of ethics in Government and the problems of campaign finance reform and the waste in Government.

If we cannot reach a budget, which is our primary responsibility, the remedy, I suggest, is not going to be a cut in pay commensurate or equal to what others are having as a cut in pay, but it is going to be the fact that 537 of us are going to be tossed out of Washington, and with justification for the American people to do just that.

I heard talk yesterday of some polls as to who was responsible; that only x percent blamed the President; and y percent blamed the Congress and z percent blamed the Democrats and another percent blamed the Republicans. My polls say the same thing, Mr. President, and that is, 100 percent blame the incumbents. We were sent to Washington, DC, to solve the problem, and we have not done so.

I serve on the Appropriations Committee, and we have worked through the process of trying to have a fair budget. We cannot reach within our Appropriations Committee, as we could not reach within the budget resolution in the Congress, the solution for all these problems. So we had a summit, and we delegated to the summiteers the responsibility to try to work out this issue.

I talked with a number of people in August, Mr. President—one of them was the Presiding Officer—about the possibility of refusing to raise the debt limit in August to bring the problem to a head. I discussed it with the distinguished majority leader and Senator DOLE and a number of my colleagues.

My point at that time was unless there was tremendous, tremendous pressure, the budget problem would not be solved. My view on that was based upon what I have seen in 10 years as a Senator where it takes that kind of pressure to bring some sort of an accommodation and some sort of a compromise, because politics is the art of the possible. Everyone cannot have his or her way about every issue.

The characteristic quality of the Congress was typified recently when we adjourned on December 22 at 3 a.m. We finally worked out the budget and the details of the controversy because of the pendency of Christmas. If Congress could have postponed Christmas, we would not have reached an agreement at that time.

In August, the prospect was present that the summiteers were going to meet, were going to isolate themselves before Congress reconvened right after Labor Day, and this top group, with the attendance of the President himself, would resolve the issue.

In our characteristic fashion, we got to the matter of the debt extension at about 2:20 in the morning as we neared our session in April. Finally, on that argument, we allocated the enormous sum of 10 minutes, equally divided, 5 on each side, to make the decision about whether we were going to raise the debt limit.

The distinguished Senator from Texas, Senator BENTSEN, chairman of the Finance Committee, did not use all of his 5 minutes. I walked down to the well of the Senate and discussed with the Republican leader the issue about taking some time to talk about the matter, and there was no issue of any sort which would have been less well received at 2:25 a.m. than that one, or anything else.

Now it is September 26, and from what I understand, today is doom's day. We either arrange a compromise today or there will be no compromise. That date is not Monday because it will take some time to work out some of the very basic mechanics of having the Congress consent and having the President sign on, if there is an agreement. We have Yom Kippur on Saturday and part of Friday. So today is the day.

Up until the present time, there are relatively few people who understand what the sequestration label means. I am explaining it virtually on the hour

to my constituents and people who inquire about it. Those who know about the sequestration are Federal employees who have received notices that they are going to be terminated. That has brought a certain reaction in the Congress. Mr. President, I suggest not nearly enough.

When we passed Gramm-Rudman-Hollings in December 1985, it was a desperate legislative measure because of our struggle to deal with the deficit. In the 10 years that I have been here, I have heard no subject discussed at length, in extenso, ad nauseum, as we have about the deficit issue. We should have solved it a long time ago.

This body passed a constitutional amendment for a balanced budget 69 to 31 in the early 1980's. It came back later and was defeated by a single vote, 66 to 34, requiring a two-thirds majority vote.

We have taken up the issue of the line-item veto, which I favor. Many in this body do not. I understand their reasons because it is a traditional legislative responsibility. But when we send enormous continuing resolutions to the President or vast appropriations bills even when we legislate on all 13, there is just inordinate, excessive pork in those bills. If the President had the authority to strike on a line item, we would be able to cut down substantially all the waste in Government.

We talk about an increase in taxes and Americans do not want an increase in taxes. The 1984 election was decided on that issue alone. The distinguished Republican leader, after that election was over and President Reagan defeated former Vice President Mondale, Senator DOLE capsulated it in one line, as he is so apt to do. He said that President Reagan did not get a mandate; he got a "Mondate" because the American people did not want a tax increase.

The 1988 election was decided on the same basis. The American people read President Bush's lips, and President Bush was selected over Governor Dukakis. The American people do not want a tax increase. Any politician who suggests a tax increase can start to look for another job.

But, Mr. President, I have found in my travels, principally through Pennsylvania visiting my 67 counties, and beyond Pennsylvania, that many Americans, perhaps most Americans would be willing to have a tax increase if Americans were sure it would be dedicated to reducing the deficit. But they are not prepared to see a tax increase which adds to the general fund where Congress can spend the money on things other than reducing the deficit.

So we are coming really to what is the edge of a precipice. I sense that the American people are really furious with what is going on in Washington, those who know and those who have some inkling of what a sequestration means.

Mr. President, I suggest that even the 537 of us who were elected down here, 100 in this body and 436 in the House, and the President and the Vice President, have not really focused on the full impact of what a sequestration would be.

I had my staff pull together a smattering of the figures. This does not begin to tell the tale of a sequestration, but let me comment on it relatively briefly.

There has been some comment about what would happen in the Department of Transportation, but I do not think many people understand the full impact.

Under a sequestration, the hours of operation of virtually all airport control towers would be reduced. The number of flights between cities would be reduced. There would be an enormous reduction in scheduled airlines.

In the Department of Justice, the FBI agents would be scaled back enormously. The Drug Enforcement Administration would have to eliminate some 1990 additional programs which have been added. The fraud and crime section of Federal investigations would be cut back enormously. Prison construction, vitally necessary, would be stopped. The Immigration and Naturalization Service would have to cease hiring and lay off substantial numbers of the Border Patrol staff, urgently needed to take care of the borders in this country.

The Centers for Disease Control would have to reduce service, stopping service for some 1 million children who would not be vaccinated for polio, measles, mumps, and many other potential illnesses. Meat and poultry inspections by the U.S. Department of Agriculture would be reduced. Meat and packing plants cannot operate without Federal inspectors, so the meat and poultry slaughter and processing industry would be forced to severely limit or curtail production because of the absence of those inspections. The sequestration would result in the absence of inspection services for about 140 days.

In the Department of the Treasury, the IRS would not be able to continue their collection practices with an estimated loss of $8.3 billion.

Mr. President, these are but a few of the losses which would be incurred.

There is a real issue as to what would happen with the Defense Department. We have a military operation, Desert Shield, in process. I do not think that that would be impacted, but the effect of a sequestration would absolutely be cataclysmic, Mr. President.

I suggest that the real point of the Pressler amendment is not to wax eloquent or to have senatorial rhetoric on reducing congressional pay and executive pay, which is probably never going to occur anyway, given the legislative process as to what is to happen. But this ought to be a clarion call that at 11:23 a.m. on Wednesday, September 26, the Congress of the United States and the executive branch ought to get down to business and solve this issue. We ought not to have a sequestration.

Yesterday, I heard talk about the disadvantage of being the one who goes first with the deficit reduction plan. Earlier there had been talk that all of the negotiators ought to go into a room and suddenly a piece of paper ought to emerge with a solution, without anybody's fingerprints on it, unable to identify who articulated the solution.

Mr. President, we were sent to Washington, DC, to be leaders. That is what a U.S. Senator ought to do. It is a very frustrating prospect not to be able to answer your friends intelligently on what is happening in Washington, DC, as to why there is no budget.

Senator MCCAIN said that he was embarrassed at church. I have been embarrassed in meetings all over Pennsylvania for several months, and it has reached a very intense level. But as we talk, Mr. President, I think that relatively few Americans understand what sequestration means. The Federal employees do, those who have received notice of furloughs. They have adopted a plan—I do not know why it took them so long—to vote against all incumbents; never mind what the party is; never mind who the incumbent is; just throw the rascals out.

The great difficulty with that kind of approach is that they will be throwing in some other rascals. We have simply not organized the structure of this Government to come to terms to deal with this issue.

Mr. President, some say that we live in a very greedy country; that everybody wants all their propositions. I know everybody in this Chamber has had one interest group after another come and insist that the deficit be cut, insist that the services for their own group be maintained, object to any taxes which will reach their group. But in the U.S. Congress, in the U.S. Senate, and at the White House, we were sent here to make the tough decisions and to make the compromises.

Senator DOLE, the Republican leader, has spoken out about his willingness to make compromises on some of the toughest issues that there are. He has suggested having the capital gains issue on a separate line. This morning's media reports that ROBERT MICHEL, Republican leader of the House, has said he wants a capital gains tax, but it is too steep a price to pay if we are going to have a stalemate and sequestration. This Senator voted for a capital gains tax when it came up last year.

Mr. President, I think we are dealing with something which is even more cataclysmic than the issue of sequestration; we are dealing with the issue of the loss of faith of the American people in the ability of Washington, DC to govern, if we permit this sequestration to occur.

Mr. President, I believe sequestration is not the appropriate consequence. If we are to have gridlock and if we are to have stalemate, my view is that we ought not to raise the debt limit, which is due on or about October 1. There are some people who are willing to take a sequestration. They say it is medicine which the American people ought to swallow in order to put our economy on a better keel.

We all know that our economy is in desperate straits. There is no doubt about that. With the reports on the slowdown in economic growth, the problems with the rise of oil prices, and difficulties, continuing in the Persian Gulf, we have very severe economic difficulties. But there is no reputable branch of economists who will tell us that a sequestration is going to provide the answer. We have to provide the answer ourselves in a sensible budget which reduces the deficit and eliminates the deficit. That can only come from the Congress and the President acting together in the art of politics, which is compromise.

So, Mr. President, if we are going to have gridlock and if we are going to have the kind of pressure necessary to bring everybody to an accommodation, then this Senator would opt to have the debt ceiling not raised. If the Government cannot function—we have seen that a few times in the 10 years I have been here—that puts so much pressure on all parties that we will all come to our senses.

So that when Senator PRESSLER offers an amendment to reduce congressional and executive salaries, I think that is a step in the right direction. I just do not think it goes far enough.

But I do not think the American people are going to wait for congressional action on this subject. I think if we have a sequestration and the disastrous consequences it would bring for the United States of America, the American people will speak in a louder voice and there are 537 of us who will be looking for new jobs—and rightly so.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I think the Senator from Pennsylvania has made a very good statement, and I hope that those of us on Capitol Hill listened to it and follow the Senator's advice. I, too, believe that sequestration would be not only an unfortunate event but an event which would cause havoc in many areas of this country.

Mr. President, I hope that cooler heads prevail. I often think that the best politics is no politics. I think that Republicans are too partisan, and I think Democrats are too partisan. I think, as we often know around here, those of us inside the beltway tend to not fully understand what the people outside the beltway are actually thinking and feeling.

As the Senator from Pennsylvania said, people in our country are very disgusted with what they see going on in Washington. I think they are correctly disgusted. They are disgusted because the President, on the one hand, and the Congress on the other, have not come together to reach an agreement to avoid sequestration.

Mr. President, this is a matter that requires the cooperation of both ends of Pennsylvania Avenue. The President must cooperate, the Congress must cooperate. I am reminded of a saying of Benjamin Franklin, 200 years ago, when he said either we hang together or most assuredly we are going to hang separately. That was true 200 years ago. I think it is true today. If we Americans, we in the Government at both ends of Pennsylvania Avenue, do not hang together to get a solution, there is a good chance that we are going to hang separately.

I fervently urge the negotiators, I urge the President, and I urge the Congress to put political differences aside to come up with a resolution because the American people are less concerned about who wins, Republicans or Democrats; they are much more concerned about getting the solution to the problem to avoid sequestration.

More importantly, Mr. President, people are concerned that we in Washington, DC, both the President and the Congress, are not addressing basic underlying economic problems; that is, the budget deficit, our national debt, and our trade deficit. The list could go on. Certainly, the resolution of the budget deficit negotiations will go part way toward resolving some of these economic problems.

So again, Mr. President, I very strongly hope that President Bush, the Congress, the Republicans, and Democrats come together to resolve this. It will take the mutual cooperation of both.

ORDER OF PROCEDURE

Mr. BAUCUS. Mr. President, I ask unanimous consent that I may speak as if in morning business for a period not to exceed 7 minutes.

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

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 3111 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FAMILY PLANNING AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD].

Mr. CONRAD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. At this point the Senate is considering amendment No. 2884 offered by the Senator from South Dakota to which no second-degree amendments are in order and on which the yeas and nays have been ordered.

Mr. CONRAD. I thank the Chair.

I wish to address myself to the pending amendment.

Mr. President, this amendment, I believe, sends a message and a very clear one that it is time to act.

We all know that we are on the brink of a breakdown in the functioning of the Federal Government, and this amendment puts all of us on the line, as we all should be on the line. If we did not have this amendment, others in the Federal Government, all those who get Government services, would face a breakdown, would face a disruption of their lives, but not at the White House, not in the Cabinet, not in the Congress. We would be held harmless while this country's basic functioning breaks down.

That cannot be. Mr. President, perhaps this will provide one additional prod to those who are negotiating, those from the White House and those who represent the Congress. A sequester would be a disaster.

Let us just review briefly what this sequester would mean. My State, the most agricultural State in the Nation, would face 40 percent cuts in agriculture; 40 percent, Mr. President. Every conservation reserve contract, cut 40 percent; every deficiency payment, cut 40 percent; every ASCS office, FMHA office, closed 2, perhaps 3 days a week.

Mr. President, the meat-packing industry in this country would be closed, because there would not be the meat inspectors. Veterans health care would be slashed; wards would be closed, service denied, and Federal employees furloughed. The list is very long. Prison guards, border patrol, air traffic controllers, all furloughed. For those who think that government is bad, this will be their opportunity to find out what it is like when there is no government, because make no mistake about it, these cuts would be dramatic and draconian, and people would suffer as a result.

I was just home this weekend. I had people come to me who said, "Senator, my family lives month to month, and, yes, we work for the Federal Government, and we are proud of it. We provide a service." Whether it is a U.S. marshal, a border patrol, an air traffic controller, they are providing essential and important services. They were saying to me, "Senator if you do not act, all of it comes to an end. What do I tell my family? What do I tell my family, who is counting on the paycheck that was promised me by the Federal Government when I went to work for all of us? What do I say to my wife, who wonders how we are going to make the mortgage payment? What do I say to the local grocery store that has my account?"

Mr. President, I had no answer, because there is no answer. If those of us who are charged with the responsibility of government fail in our most essential responsibility, what answer can there be? Clearly, Mr. President, we must act. Not only would sequester be a disaster, but a failure to confront the deficit crisis in this country would also be a disaster.

This country requires deficit reduction. For the 4 years that I have been in this body, nothing has consumed me more than the need to get our fiscal house in order. What could be more clear? In the last 9 years, we have tripled the national debt in this country, tripled. Tripled the trade deficit. We have gone from being the largest creditor nation in the world, with more countries owing us money than any other country in the world, to now being the largest debtor nation, owing more money than any other country in the world.

Mr. President, to continue in that direction is to continue on the path of decline. That is not acceptable. The American people deserve better. And all of us are responsible. We need a package of $500 billion of deficit reduction over the next 5 years. That is how big the problem is. Five hundred billion dollars of deficit reduction over the next 5 years would balance the budget and start saving the Social Security surplus.

Mr. President, I sometimes say to people at home, "You know what Jim Bakker, the evangelist is in jail for? He is in jail for raising money for one purpose and using it for another purpose. That is why he is in jail." Every one of us in Washington has the same obligation and the same responsibility because we have been taking money that we have raised, that we have said was for Social Security, and we have used it for other purposes.

Mr. President, that is wrong. That is why Jim Bakker is in jail; it is wrong. It is as wrong for us to do it, as it was for him to do it. We have heard much that these talks are held up because the President insists on a tax break for capital gains. A lot of people asked me when I went home this weekend, "What is capital gains? I hear a lot of talk about capital gains; I am not sure what it is. I do not have any capital gains."

Well, I think every Member of this body knows about capital gains, and we know who benefits from a cut in the capital gains tax. Every proposal that the President has advocated would reduce taxes for those who make more than $200,000 a year and increase taxes for everyone else.

Mr. President, I asked my staff to prepare this chart that puts in context what happened with tax changes over the last 13 years, from 1977 to 1990. This chart is broken down by income groups. The lowest one-fifth of our population has had a slight tax increase over this period. The next one-fifth of our population, in terms of income, have also experienced a tax increase. And so it is with the third one-fifth of our population and the fourth. All of them have experienced tax increases in the last 13 years. And so it is with the next 10 percent, and even the next 5 percent, and even the next 4 percent.

But look at what has happened to the very top 1 percent of our population. They have experienced a massive tax cut. Now we hear that the White House insists on still more tax forgiveness for the wealthy, those among us who have the greatest ability to pay. That is wrong. That cannot be sustained.

Already, we have seen Senator DOLE indicate that he is willing to put capital gains aside. We have seen Representative MICHEL, the Republican leader of the House, break with the White House on this question.

I urge today that President Bush think carefully about what is in the true national interest. The need for a substantial program of deficit reduction is so critical. The need to avoid the disastrous consequences of sequester is so critical that the President and his advisers should back off.

They should jettison any thoughts to tax breaks for the wealthy being part of this package and those from Congress ought to jettison any ideas of new spending programs as part of this package. Those are the lines of compromise. Forget about any tax breaks. Forget about any new spending programs. Let us have a package of deficit reduction that puts America on a path of fiscal responsibility, that avoids catastrophic effects of sequester, that sends a signal to the world that the United States is getting back on track, that this country has the will to make the hard decisions to move ahead.

We have an unparalleled opportunity. Oftentimes at a time of crisis, at a time of difficulty, there is an opportunity. That opportunity exists today. We could do something great for this country by putting in place a package that would restore America's fiscal integrity.

We are that close. If only those with the cooler heads and the wiser heads would prevail and we would forget about those elements of the package that do not reduce the deficit but would increase it, we could move ahead. Mr. President, it is not that hard to do.

I introduced before the Budget Committee a package that would reduce the deficit $559 billion over 5 years. It cuts spending absolutely. We told our allies in Europe and Japan it was time for them to start paying more of their own bills. We could not go on spending $100 billion a year to pay the bills for Europe and have to borrow the money from them to do it and $50 billion a year for Japan and have to borrow the money from them to do it.

It asks that those who are not paying their fair share of taxes now to start paying them. We have a $100 billion tax gap in this country, the difference between what is owed and what is being paid, and we ought to insist that those who are not now paying their fair share contribute before we ask the honest taxpayers to pay a penny more.

Today is the day. Today is the day that we need to insist that our leaders act.

So I come to the floor to implore my colleagues who are summit negotiators, and to implore the President of the United States, it is time to compromise. It is time to come to a conclusion. It is time to settle this problem once and for all.

Mr. President, I once again commend my colleagues from South Dakota, Senator DASCHLE and Senator PRESSLER, for offering this amendment because it sends a message that should be sent. I thank them for providing the vehicle.

Mr. President, I ask unanimous consent to print in the RECORD a newspaper article from the New York Times on the effect of the cuts.

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

[From the New York Times, Sept. 26, 1990]

WHITE HOUSE AND CONGRESS MAP STRATEGY FOR DEEP SPENDING CUTS

(By Susan F. Rasky)

WASHINGTON, September 25.—With time for a budget compromise running short, the White House and Congressional Democrats each prepared doomsday scenarios today to keep the Government running when the new fiscal year begins on Monday and to turn to their advantage automatic spending cuts that would take effect that day.

John H. Sununu, the White House chief of staff, told Senate Republicans in a meeting behind closed doors that President Bush was prepared to rely on an obscure legal opinion, issued in the final days of the Carter Administration, to continue "essen-

tial services" even though money to pay for them has not been approved by Congress. The strategy immediately drew criticism even from members of Mr. Bush's own party, who warned Mr. Sununu that it was an intrusion on Congress's constitutional spending power.

Mr. Sununu outlined this aggressive strategy as the White House found its bargaining demand for a cut in the capital gains tax rate weakened as the top Republican leader in the House, Representative Robert H. Michel of Illinois, said he would be willing to abandon the cut if that would mean a budget deal with Democrats.

Senator Bob Dole of Kansas, the Senate minority leader and the only other Republican lawmaker in the top-level negotiating group that has been meeting for the last week, has previously indicated that lowering the capital gains tax rate is not as high a priority for him as a budget deal.

For their part, the Democratic leadership prepared for the budget deadline by laying plans to ram an alternative budget through both houses after first allowing the automatic spending cuts to take effect for the first few days of the new fiscal year.

TIGHT TIMETABLE

Both strategies assume that in the absence of a budget deal within the next 48 hours, Democratic Congressional leaders will put forward a stopgap spending bill to finance the Government and delay the automatic spending cuts for at least a week and perhaps as much as three. A stopgap bill delaying the cuts until Oct. 20 that includes $2 billion Mr. Bush has requested for American military operations in the Persian Gulf cleared two crucial House committees today and is expected to reach the House floor on Thursday.

Although Congress has until midnight Sunday to work out a solution to the money crunch, the time for floor action is actually much tighter. Both the House and Senate plan to suspend formal sessions on Friday afternoon through Saturday evening to accommodate lawmakers observing the Jewish holiday, Yom Kippur.

Mr. Bush reiterated to reporters today that in the absence of a budget compromise, he would veto a stopgap spending bill that delays the automatic cuts. "So if there is no budget agreement with real spending reduction and real process reform by the end of the week, I will have to veto it," Mr. Bush told reporters. "I do not want to see further delays and kicking this problem on down the road."

Mr. Sununu's message came in response to questions from Republican senators who were concerned that the automatic spending cuts would be devastating to the economy and to their party.

According to Republicans, the White House would base its authority to continue some Government operations on a 1981 ruling by Benjamin R. Civiletti, the Attorney General under President Jimmy Carter. Those operations could theoretically include air traffic control, meat inspection, and military operations from cuts that would otherwise be required under the Gramm-Rudman-Hollings balanced-budget law.

ISSUE OF CAPITAL GAINS

Democrats say that the high-level budget talks have foundered on the issue of a cut in the capital gains tax. Senator Dole, who suggested last week, that a vote on capital gains and other revenue losing measures be separated from the deficit-reducing package in hopes of moving the stalled talks along.

Congressional Democrats are adamantly opposed to the cut in the capital gains tax unless it is accompanied by tax increases on the wealthy Americans who would be the primary beneficiaries of the lower capital gains rate. Democrats have said that once the capital gains issue was resolved, remaining disputes over spending cuts and budget enforcement procedures could be settled quickly.

In declaring his position today, Mr. Michel noted that he did not speak for all House Republicans, most of whom continue to insist that a gains cut must be part of the budget package. He also noted that Mr. Bush had campaigned on a pledge to lower the gains tax rate and that so far the Administration appeared to be standing pat. "I still take my lead from the Administration," he said.

House Democratic leaders said they plan to make a decision by late tonight or early Wednesday on how to proceed with the stopgap spending bill and its provisions for delaying automatic spending cuts. Some form of temporary spending measure will be necessary by Oct. 1 even if there is a budget agreement because Congress has not enacted any of the 13 regular spending bills that are supposed to finance the Government for the 1991 fiscal year that begins then.

PRESIDENTIAL THREAT OF VETO

Like the Republicans, Democrats assume the President would make good on his threat to veto a stopgap spending bill. Democrats also assume that at least initially they will not have the votes to override that veto and that about $85 billion of reductions in domestic and military spending will take effect.

While some Democrats believe that the automatic cuts should be delayed until Oct. 20 to give Congress more time to work out a budget solution, others, including Representative Leon E. Panetta, the California Democrat who is chairman of the House Budget Committee, have suggested a delay of just a few days.

Under this scenario, Democrats would use their majorities in the House and Senate to try to pass their own version of a budget quickly. While such a budget would undoubtedly meet Republican resistance, Democrats are wagering that lawmakers who are faced with the choice between a Democratic plan or continuation of the automatic spending cuts will approve the Democratic budget.

Senate Republicans, who fear precisely such an outcome but who also object to Mr. Sununu's plan, today began to prepare their own budget alternatives.

This effort by moderate Republicans is independent of the White House budget strategy and reflects mounting frustration among moderates who believe the Administration is raising financial chaos.

Mr. CONRAD. I yield the floor.

Mr. EXON. Mr. President, it should be obvious to all that if there is to be a sequester, it should apply to Members of Congress as well as other Federal employees. I will support such efforts.

There is widespread belief that the sequester would be governmentwide and therefore equal.

That is one of the great myths of Gramm-Rudman. That measure exempted about 60 percent of the budget from cuts and was one of its greatest failures.

We can begin to make Gramm-Rudman more honest by applying its cuts to ourselves. Let us get on with it.

AMENDMENT NO. 2885, AS MODIFIED, TO AMENDMENT NO. 2884

Mr. DASCHLE. Mr. President, I have an amendment at the desk which is a technical modification of an amendment already adopted by the Senate.

I ask unanimous consent that the amendment be adopted.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from South Dakota is so modified.

Mr. DASCHLE. I thank the Chair.

The amendment (No. 2885), as modified, is as follows:

At the end of the amendment add the following:

APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under section 531 of title V, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level V the Executive Schedule.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I move to reconsider the last vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2886 TO AMENDMENT NO. 2884

Mr. PRESSLER. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2886 to amendment No. 2884.

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

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

The amendment is as follows:

In section (c)(D)(2):

Delete "Office of Personnel Management" and insert "Office of Management and Budget".

Mr. PRESSLER. Mr. President, I also have a technical amendment that does not change the meaning of the amendment. On page 3, line 8, delete "Office of Personnel Management" and insert "Office of Management and Budget." It is just a technical change. The Office of Legislative Counsel suggested this change.

I urge adoption of the technical amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2886) was agreed to.

Mr. GRASSLEY. Mr. President, I rise in strong support of the amendment of the senior Senator from South Dakota and am proud to join him as a cosponsor. While many other Members have already said as much, it bears repeating—Congress should at the very least set an example for those Federal employees who may be forced to take unpaid furloughs as a result of the budget impasse.

I would add to that that Congress should take a dose of its own medicine.

I have come before this body many times over the last year with amendments that Congress should apply to itself the same laws and policies that we impose on the rest of the country. There are few issues, however, as poignant as the paycheck which pays our household bills.

Mr. President, I would like to remind my colleagues in this body that during the Great Depression Congress cut its pay by 10 percent to set an example for the rest of the Nation. That action was commendable and ought to provide a precedent for us now. While the Federal budget crisis certainly does not compare with the crisis of the Depression, I fully believe that Congress should not take this budget deficit, and its consequences, lightly.

I hope that this amendment will be passed with a nearly unanimous vote and that Members will cast their vote with every bit of sincerity.

Mr. SIMPSON. Mr. President, I strongly support the amendment offered by my distinguished colleague from South Dakota, LARRY PRESSLER. He is right on target on this, just as he is on so many other issues.

I will not speak in detail about his amendment—the justice of this measure has already been pointed out so very eloquently by my colleagues, Senator SPECTER, Senator CONRAD, and others. But I do wish to point out one or two facts for the Senate's consideration.

"Sequestration" is surely the dirty word in Washington these days. Up to $100 billion may have to be sliced out of the budget in a ruthless and arbitrary fashion if we do not all jump off the cliff together and forge a deficit reduction package that meets the Gramm-Rudman-Hollings targets. We have received estimates that 40 percent may disappear overnight from whole areas of the Government. Those are truly shocking figures.

I do wish to remind my colleagues of why such a scandalous level of cutting would be required in the absence of a budget agreement. The fact is, we don't have to cut 40 percent of the Government as a whole—just that sliver that is left over after you eliminate all of our "nonsequesterables." The problem is that we have nearly $1 trillion of annual spending that cannot be touched under the Gramm-Rudman-Hollings law.

With or without a sequestration, there is going to be a lot of pain to spread around as we attempt to conquer the deficit. Pain—a lot of it. So much so that there is no possible way you can leave $980 billion in annual spending off the table and expect to make any meaningful progress.

This amendment would take some of that pain and inflict it on the Members of Congress. I say that is just fine—before all of this started, I inflicted a sequester on myself regarding the pay increase we have been given during my current term of office. I have returned $20,800 of my annual salary to the Treasury as it is. This amendment is the right thing to do—start with us.

Yet, you can't stop this body, though, or stop with the sequesterable portions of the budget. That is simply not a big enough base to shoulder the burden. The sacrifice necessary to pay for this deficit that we have all rung up are so vast that they are going to have to be borne by every shoulder in our society. Soon we are going to get the chance to ask our citizens whether they are willing to be citizens first, and special interests second. And whether we want to represent our particular constituencies first, or the Nation. That is just what it is going to come down to. I do hope that the spirit that induces us to take this step is also going to be in evidence when it comes time to do the heavy lifting in October.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 2884, AS AMENDED

Mr. PRESSLER. Mr. President, the yeas and nays have been ordered, and we are ready to vote.

The PRESIDING OFFICER. If there is no further debate, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. PRYOR. 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. KENNEDY. 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 question occurs on the amendment proposed by the Senator from South Dakota, amendment numbered 2884, as amended.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kentucky [Mr. MCCONNELL] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that the Senator from New Hampshire [Mr. RUDMAN] is absent due to a death in the family.

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

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—96

Adams	Exon	Mack
Akaka	Ford	McCain
Armstrong	Fowler	McClure
Baucus	Garn	Metzenbaum
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boren	Gramm	Nickles
Boschwitz	Grassley	Nunn
Bradley	Harkin	Packwood
Breaux	Hatch	Pell
Bryan	Hatfield	Pressler
Bumpers	Heflin	Pryor
Burdick	Heinz	Reid
Burns	Helms	Riegle
Byrd	Hollings	Robb
Chafee	Humphrey	Rockefeller
Coats	Inouye	Roth
Cochran	Jeffords	Sanford
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
D'Amato	Kennedy	Simon
Danforth	Kerrey	Simpson
Daschle	Kerry	Specter
DeConcini	Kohl	Stevens
Dixon	Lautenberg	Symms
Dodd	Leahy	Thurmond
Dole	Levin	Wallop
Domenici	Lieberman	Warner
Durenberger	Lott	Wirth

NAYS—1

Lugar

NOT VOTING—3

McConnell	Rudman	Wilson

So the amendment (No. 2884), as amended, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment, as amended was agreed to.

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

The motion to lay on the table was agreed to.

CLOTURE VOTES TO BEGIN AT 5 P.M.

Mr. KENNEDY. Mr. President, on behalf of the majority leader, I ask unanimous consent that the cloture vote on S. 110 occur at 5 p.m. today, and that the cloture vote on the motion to proceed to S. 874 occur immediately thereafter. I understand it has been cleared with the minority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, may I just speak for 2 minutes to say that I am——

Mr. PRYOR. Mr. President, there is not order in the Senate. I cannot hear the Senator from South Dakota.

The PRESIDING OFFICER. The Senate will be in order. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I thank the Senate for its fine vote on my amendment. I realize that being attached to this bill, it probably will not be signed by the President in time to be effective. I intend to offer the same amendment, but not seek a rollcall vote, on appropriate vehicles to make sure we get it in by October 1 if the current scenario leads to sequestration. I just wanted to serve notice to all Members.

Mr. ARMSTRONG. Will the Senator yield?

Mr. PRESSLER. I am happy to yield.

Mr. ARMSTRONG. I congratulate the Senator from South Dakota on his amendment. It really is a wonderful idea. It is very symbolic. It is an idea which expresses the better impulses of the Senate. I thank him for taking the initiative and showing the leadership to bring this matter before the Senate and for pursuing it successfully to a conclusion.

Mr. FORD. Mr. President, I object because the Senator asking to yield must ask a question, not make a statement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I rise to address a matter of some urgency regarding the supply of fuel in the United States of America and the impact of that shortage on energy prices. But, I note my colleague, the Senator from Arkansas, and I yield to him at this time.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ARMSTRONG addressed the Chair.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I believe I have the floor and without losing the floor I would yield to my colleague from Arkansas.

The PRESIDING OFFICER. Is there objection to that request?

Mr. ARMSTRONG. Mr. President, reserving the right to object, what was the unanimous-consent request?

The PRESIDING OFFICER. That he be able to retain the floor, while yielding to the Senator from Arkansas for a statement.

Mr. ARMSTRONG. Mr. President, do I recall that that is exactly the nature of the objection that was lodged against me a moment ago? I think that is correct. I am not going to object to this, but I would just like to remind all Senators, as I reminded the Senator from Massachusetts last night, the way we do business around here is on the basis of give and take and comity and getting along. I think it would be foolish for me to object to this or for other Senators to object. I do not object and I hope in the future other Senators will not object to similar reasonable requests.

Mr. LOTT. The Senator has a right to object.

Mr. HUMPHREY addressed the Chair

Mr. LIEBERMAN addressed the Chair.

Mr. KENNEDY. Regular order, Mr. President. The Senator from Connecticut had the floor. He asked unanimous consent. There was objection, but it seems to me that he still has the floor, does he not?

The PRESIDING OFFICER. We are taking objections now.

Mr. KENNEDY. Then I object and hope that the Senator will be recognized.

The PRESIDING OFFICER. Objection is heard. The Senator from Connecticut has the floor.

Mr. LIEBERMAN. I thank the Chair. I would then, with apologies to my colleagues from Arkansas, proceed to the statement that I intended to make.

ESCALATION OF OIL PRICES

Mr. LIEBERMAN. Mr. President, I think there is no more pressing issue facing each and every American consumer and American business and, in fact, the American economy than the extraordinary escalation in fuel oil prices that has occurred since the Iraqi invasion of Kuwait.

Mr. President, it is my strong opinion that at the same time that Iraq invaded Kuwait, the oil industry invaded the pocketbooks of American consumers and American businesses. As all of the Members of the Chamber know well, since August 2, when that invasion occurred, the price of crude oil has gone up to almost $40 a barrel. A very short time ago, it was as little as $15 or $16 a barrel.

What has been truly outrageous and infuriating is the fact that this enormous increase in the price of crude oil and in the price of gasoline, has all occurred while the supply of crude oil remains high. In fact, in early August it was at a historic high. The normal rules of the market economy—the normal rules of supply and demand—appear not to relate to the way energy prices are arrived at in our country today. When it comes to the price of fuel oil, gas, and now home heating oil, what goes up apparently always stays up and does not go down.

Mr. President, there are many things I think we can begin to do to try to fight back and return some fairness to the pricing of energy in our country. One is to consider and adopt a bill which I have introduced and which, I am pleased to say, has been cosponsored by more than 20 of my colleagues from both parties here in this Chamber. That bill would authorize the President of the United States to declare an energy emergency in circumstances such as the current one.

Under my bill, during such an emergency, those involved in the oil business would not be able to increase their prices more than the actual increase in cost to them, plus a reasonable profit margin. That would be a way of cutting through a situation, such as now, where speculators and profiteers have bid up the price of crude oil, of gasoline, and now—as winter begins to come in some of the northern sections of our country—of home heating oil, in spite of the fact that supplies remain ample. These price increases reflect a psychology that is having a disastrous effect on the American economy.

Mr. President, in the last week a number of economic indicators have come out and they all begin to show the effect of the dramatic increase in oil prices. The inflation rate went up during August at a rate which, if annualized, would approach 10 percent, double digits. Our trade deficit for July increased dramatically, so it stands to reason that the deficit for the month of August will skyrocket because of the increase in the price of fuel. Both of these will have the effect, the way economic rules seem to work, of sending interest rates up, not down.

That is exactly what large sections of the American economy simply do not need. In fact, many sections of our country are in a recession now. Certainly the Northeast, or substantial parts of the Northeast, are in recession, and what we need now are lower interest rates, not higher interest rates.

So what is on the line as we face this outrageous increase in the price of energy is not only dramatic unfairness to the average consumer, not only a heavy blow to business trying to make their way in an already unsteady economy, but a direct body blow to our economy. If we just sit back and do nothing about it, we are fools. We are literally going to be fiddling while Rome burns. We are literally going to be sitting back and doing nothing while the security of our country is seriously jeopardized.

FAMILY PLANNING AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Will the Senator yield for a unanimous-consent request from the Senator from Utah without losing is right to the floor?

Mr. LIEBERMAN. I would, indeed, under those circumstances.

Mr. HATCH. Mr. President, I ask unanimous consent that immediately upon the conclusion of the remarks of the distinguished Senator from Connecticut the distinguished Senator from Arkansas be given 4 minutes——

Mr. PRYOR. Mr. President, I think 4 minutes is sufficient.

Mr. HATCH. To make his comments. Then the right to the floor to call up an amendment, be given to the distinguished Senator from New Hampshire.

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

Mr. KENNEDY. Mr. President, reserving the right to object, as I understand, the Senator from Connecticut is going to introduce a resolution and have disposal of the resolution. I have no objection then to going to the Senator from Arkansas, and then going to the Senator from New Hampshire.

I would also include in that after the introduction of the amendment of the Senator from New Hampshire, the Senator from Connecticut be recognized to introduce a second-degree amendment.

Mr. ARMSTRONG. I object.

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

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Yes, Mr. President, there is an objection to the final part of the unanimous-consent request.

Mr. HATCH. Mr. President, could I——

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. Mr. President, could I ask——

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATCH. Mr. President, may I be recognized here? Could I ask the distinguished Senator from Connecticut—one of our problems on this bill, and there has become a lot, is that they only have until the cloture vote to bring up amendments.

I wonder if it is possible for you to have this resolution, unrelated as I understand it to this bill, brought up following the clotuure vote, or whenever we get unanimous consent for you? I do not want any more time taken up by nonrelated matters because we have a lot of people who have amendments. That was the whole reason for the fight last night.

Mr. KENNEDY. If the Senator will yield further.

As I understand, the Senator from Connecticut would like to get a vote. He was glad to do it within a 10-minute time frame. I understand what the Senator is requesting, but as I understand, he would do it within a 10-minute timeframe.

Mr. HATCH. Let me say this: We have a number of amendments on our side—people waiting for days. They know that once cloture is invoked, they will not be able to bring up their amendments. I am inclined to do this if he will limit the time to 10 minutes. And then we will go to the distinguished Senator from Arkansas who just has a 4-minute statement, with no amendments to make. And I would ask unanimous consent that we go next to him. Then at least the distinguished Senator from New Hampshire can call up his amendment. Then whatever happens, happens under the rules.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

First, I would like to inquire, do we have a copy of that resolution so that the Members would have a chance to review that resolution? I would be inclined to object until I have a chance to at least see what is in the resolution.

Mr. HATCH. Could I get this other unanimous-consent request through which is then related to your request?

I am asking unanimous consent to go to the distinguished Senator from Arkansas as soon as this matter is disposed of, one way or the other, and then to the distinguished Senator from New Hampshire, to call up an amendment, and then let the rules take over.

Mr. LOTT. Reserving the right to object, you are saying you are now agreeing to let the resolution——

Mr. HATCH. No. I am saying as soon as it is disposed of when it is disposed of. I would ask that he give you a copy of the resolution.

Mr. LOTT. I am sorry.

Mr. HATCH. I am not agreeing he can dispose of this resolution. I am just saying immediately upon disposal of that resolution, we go to the distinguished Senator from Arkansas, and then to the distinguished Senator from New Hampshire.

Mr. LOTT. Mr. President, I am trying to clarify exactly, is this motion going to lead to the immediate consideration of the resolution? That is why I am reserving at this point to object.

Mr. HATCH. Should I restate?

The PRESIDING OFFICER. Let the Senator from Utah restate his request.

Mr. HATCH. I ask unanimous consent that as soon as the distinguished Senator from Connecticut's resolution is disposed of, whenever it is disposed of——

Mr. LOTT. Mr. President.

Mr. HATCH. That we yield 4 minutes to the distinguished Senator from Arkansas to make a short statement.

In fact, if I could, would the Senator from Connecticut be willing to yield 4 minutes to the distinguished Senator from Arkansas right now with the understanding that we will come back to him, he will not lose the right to the floor, and then as soon as his matter is disposed of, we will go to the distinguished Senator from New Hampshire?

Mr. ARMSTRONG. As soon as the resolution is disposed of.

Mr. NICKLES. Would the Senator yield for a comment?

I just glanced at Senator LIEBERMAN's resolution. It basically urges—correct me if I am wrong—urges that we begin releasing oil from the strategic petroleum reserve?

I see Senator FORD and others on the Energy Committee. We have had one hearing on this. I think we would need to discuss it at length before we pass this resolution. I am not sure that is a good resolution.

Mr. HATCH. Nothing in my unanimous consent would prevent you from doing that.

Mr. HUMPHREY addressed the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Is there a unanimous consent pending?

The PRESIDING OFFICER. There is a unanimous-consent request pending. I think if it is not objected to, we are going to move on. Is there objection?

Mr. HUMPHREY. Mr. President, if the Chair will not entertain a reservation, I will be forced to object.

I would first like to defer to express a thought.

Mr. President, I want to be sure that this unanimous-consent request in no way negates the rule of the Senate; that the matters only are germane, that the remarks germane to the legislation be in order 3 hours after convening of the Senate. Let me be sure that rule is not in any way negated by this request.

The PRESIDING OFFICER. The unanimous-consent agreement does not in any way relate to that.

Mr. HUMPHREY. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

No objection is heard. The unanimous-consent request is agreed to.

NOMINATION OF JUDGE DAVID SOUTER

Mr. PRYOR. Mr. President, I not only thank the Chair, I thank seven or eight of my colleagues who have made it possible for me to address the

Senate for not to exceed 4 minutes on the nomination of Judge David Souter.

First, over the past 2 months, we have come to learn more and more about Judge David Souter, the President's nominee for the Supreme Court. Judge Souter came to us as a mystery. As the confirmation process proceeded—and he was questioned by members of the Judiciary Committee—many looked for clues to unravel the mystery of this man. I am not certain there is a mystery to be solved: Judge Souter is an intelligent, highly qualified nominee who brings an open mind, an even temperament, and a respect for basic constitutional principle to the bench.

Second, Judge David Souter comes across as an extremely intelligent man who has a distinguished educational background. He is a magna cum laude graduate of Harvard University, a Rhodes scholar, and a Harvard Law School graduate. His professional career is no less extraordinary: He served in the New Hampshire attorney general's office for 10 years—including 2 years as the attorney general of that State, sat as a trial court judge for 5 years, served on the New Hampshire Supreme Court for 7 years, and was recently appointed to the 1st Circuit Court of Appeals.

Third, during his confirmation hearings, Judge David Souter appears to have shown a judicial philosophy grounded in the fundamental principles of our constitutional system, including separation of powers and protection of individual rights. He espouses a judicial philosophy that treats the Constitution as a living document which recognizes changing circumstances.

Fourth, it is not the Senate's duty to determine how the nominee would vote on specific cases. Rather, it is the Senate's duty to assess the nominee's general philosophy and his approach to resolving the critical issues which come before the Supreme Court of the United States.

Fifth, Judge David Souter has shown himself to be a thoughtful jurist, possessing a sharp legal mind, who does not bring a personal agenda to his work on the court. Rather, his appearances and statements indicate he would bring to the Court an open mind, an eagerness to listen, and a willingness to understand both sides of an issue.

Sixth, some people have raised questions about Judge Souter's New Hampshire parochialism. Mr. President, for this Senator I am comfortable with a Supreme Court justice who lives in the same unpainted farmhouse that he grew up in, who visits his mother regularly, and who serves on the board of directors of the Concord Hospital.

Mr. President, finally, as far as this Senator can state, I have faith in this nominee. If his confirmation hearings and his statements before the Judiciary Committee are any indication of his future service to the Highest Court of the land I think that that faith will have been misplaced.

I am very proud, Mr. President, this morning to endorse the nomination of Judge David Souter to the Supreme Court of the United States.

FAMILY PLANNING AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the agreement, the Senator from Connecticut is recognized.

AMENDMENT NO. 2887

(Purpose: Calling upon the President to initiate a modest use of the strategic petroleum reserve to stabilize the crude oil market)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 2887.

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

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

The amendment is as follows:

At the appropriate place in the amendment add the following:

Since Americans are deeply concerned about the impact of the Iraqi invasion of Kuwait on the world supply and price of crude oil and on the price of refined products—like gasoline and heating oil—that the American consumer will have to pay and the American economy will have to absorb;

Since the Department of Energy now estimates that most of the crude oil production lost because of the Iraqi invasion of Kuwait will be offset by increased production around the world;

Since crude oil markets remain unstable and volatile, causing the price of crude this week to exceed forty dollars per barrel and leading some experts to conclude that it may reach sixty dollars per barrel;

Since the latest economic indicators show that even before Iraqi's invasion of Kuwait the American economy was slowing such that the recent increases in the price of oil and oil products now threaten seriously to disrupt our economy and begin a recession;

Since the substantial increase in oil and oil product prices will severely affect those who can least afford it, including rural and urban poor, home heating fuel users, and small communities relying on oil-fired electric power generation;

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Several Senators addressed Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk.

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

The PRESIDING OFFICER. The Senate will be in order. Under the previous order that will not be in order.

Several Senators addressed the Chair.

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

Mr. ARMSTRONG. Mr. President, that is not in order until the clerk has stated the amendment. The amendment is at the desk.

Regular order, Mr. President.

The PRESIDING OFFICER. The question now is whether or not Mr. ARMSTRONG can be recognized. The Chair rules that he can be recognized for a second-degree amendment. So the Senator from Colorado will be recognized.

AMENDMENT NO. 2888 TO AMENDMENT NO. 2887

(Purpose: To protect the health and well-being of young people and the integrity of their families)

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2888 to amendment No. 2887.

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

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. The Chair hears objection.

The bill clerk resumed reading the amendment as follows:

At the end of the pending question add the following:

At the appropriate place, add the following new section:

SEC. . NOTIFICATION OF PARENT PRIOR TO ABORTION ON A MINOR.

(a) NOTIFICATION REQUIREMENT.—Section 1001 of the Public Health Service Act (42 USC 300) is amended by adding at the appropriate place the following new subsection:

"( )(1) No entity which receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified under paragraph (2), except when the attending physician certifies in the minor's medical record that the abortion was performed due to a medical emergency requiring immediate action.

"(2) Such notice shall—

"(A) Be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or

"(B) Be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

"(3) This subsection shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian."

(b) EFFECTIVE DATE.—This section shall take effect 30 days after enactment.

Mr. ARMSTRONG. I ask for the yeas and nays, Mr. President.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

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

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant 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. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk resumed the call of the roll.

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

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

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the text of my amendment be modified by adding the text that I have already sent to the desk, which is the second page.

Mr. ARMSTRONG. Mr. President, reserving the right to object, I have no personal objection to this. In fact, I am in agreement with letting the Senator do so.

But on behalf of another Senator, I am at least temporarily constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. LIEBERMAN. Mr. President, having heard the objection, I understand the spirit in which my colleague from Colorado has put it forward.

Mr. ARMSTRONG. We will try to clear that very, very quickly. I will do that right now.

Mr. LIEBERMAN. Mr. President, my own feeling is that this sense-of-the-Senate resolution is critically important to send a message to the President and the administration that this oil reserve ought to be tapped immediately to help lower the panic in the oil markets.

The resolution does not stand with one page. Therefore, I would ask that my resolution be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I did not hear the Senator's unanimous-consent request. Will the Senator restate the request?

Mr. LIEBERMAN. Yes. My motion was to withdraw my amendment at this time.

Mr. ARMSTRONG. Mr. President, I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. LIEBERMAN. Mr. President, although again I do feel that this is matter of real importance, particularly with the meeting of the International Energy Agency coming up this Friday, and in light of a story in the Wall Street Journal today that the Secretary of Energy—and the Secretaries of State and Transportation—have asked the President to tap into the oil reserve—but unfortunately others in the administration are counseling otherwise, I feel I must table my amendment which now cannot be considered in its entirety. I had hoped the Senate could go on record to send a message to the President that we think it is critical for him to tap into this reserve now to stabilize oil prices in our country.

Being unable to correct my amendment, I would now move to table my own motion.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

Mr. ARMSTRONG. I suggest the absence of a quorum.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ARMSTRONG. I suggest the absence of a quorum.

A quorum is not present, and there cannot possibly be a sufficient second on the floor at this time.

Mr. KENNEDY. I ask for the yeas and nays.

Mr. ARMSTRONG. I suggest the absence of a quorum.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. There is not a sufficient second.

The Senator from Massachusetts.

Mr. ARMSTRONG. I suggest the absence of a quorum.

Mr. KENNEDY. We are in a situation now where the Senator from Connecticut has tried to modify his amendment to make it in the way that he so desired. There has been objection to that.

Mr. ARMSTRONG. I suggest the absence of a quorum.

Mr. KENNEDY. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor. Recognition of the Senator cannot be rescinded when he has the floor by a request for a quorum.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we are in a situation where the Senator from Connecticut had requested to be able to modify his amendment. That was objected to. Then the Senator indicated that he did not believe that this was the appropriate vehicle to be able to consider the amendment and that he was prepared to offer it on a suitable vehicle, and that was objected to. And we had been reminded earlier in the day about how there were Members who wanted to move ahead with amendments that would be nongermane; we were reminded about that situation.

We wanted to make every accommodation to the Members to be able to permit——

Mr. ARMSTRONG. Mr. President, point of order.

Mr. KENNEDY. I do not yield for such purpose, Mr. President.

Mr. ARMSTRONG. He does not have to yield. I raise a point of order.

Mr. KENNEDY. Mr. President, I want to continue my discussion.

Mr. ARMSTRONG. I want to make the point of order that debate on this motion is not in order.

Mr. KENNEDY. All those——

Mr. ARMSTRONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator will suspend while the Chair discusses the matter with the Parliamentarian to get an appropriate ruling.

The Senator from Massachusetts has the floor. He was recognized and therefore is entitled to finish whatever remarks he wishes to make. The Chair will further state that the recognition of the Senator is not for purposes of debate of the Lieberman motion, because the motion to table is pending, and it is not debatable.

Mr. LEAHY addressed the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

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

Mr. LEIBERMAN. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

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

The PRESIDING OFFICER (Mr. BRYAN). Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

Mr. ARMSTRONG. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be 30 minutes of debate on the pending amendment equally divided and controlled in the usual form between Senator KENNEDY and Senator ARMSTRONG, and that upon the conclusion or yielding back of that time, there be a vote on the Lieberman motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, and I shall not object, but I would like to make an inquiry at this time, and I think it is an appropriate time to make an inquiry of the leader and the manager of the bill on this side.

The record will show that this Senator has held very faithfully to his views on this abortion matter up and down. The record will also show that this Senator has been a supporter of family planning, and I happen to also feel that notification of parents of minor children are a key point.

I would like to have a chance, if I could, before the cloture vote, to have a vote up or down on the amendment proposed for parental notification by the Senator from Colorado.

I would like to inquire of the managers of the bill as to whether or not we are going to have an up-or-down vote on the amendment being offered by the Senator from Colorado before the cloture vote, because that will have a great deal to do with how this one Senator votes on cloture if it comes up and when it comes up, as I understand it, at 5 o'clock.

Mr. KENNEDY. Mr. President, last night the Senator from Colorado proposed an amendment with regard to parent notification on the issue of abortion. I put in a second-degree amendment because there are no funds in this bill whatsoever that deal with abortion. The issues of parental notification, parental consent, the whole wide range of issues that relate to abortion should be debated, should be discussed at some particular time. There have been those who have tied that particular issue into this debate. But since there are no funds whatsoever that are involved in abortion, we thought we ought to clarify that very clearly. That is why the amendment in the second-degree spelled that out very clearly, because that is the fact with regards to this legislation.

If there is some other public policy dealing with the whole range of different abortion issues and the Senate desires to vote on that, so be it. But that really is not what this bill is about.

Mr. ARMSTRONG. Would the Senator——

Mr. EXON. Will the manager of the bill, my good friend, Senator KENNEDY, then please advise me what would be wrong with expressing—or seeing if the Senate would express an opinion that we should have parental notification?

Mr. KENNEDY. Parental notification for what?

Mr. EXON. Parental notification when a minor is contemplating having an abortion. Certainly I would have to agree, in my view at least, with the adoption of the Chafee amendment yesterday we went further down the road than we have ever gone before with regard to family planning and abortion.

Different people have differing views on that point and I am not criticizing anyone who does not agree with me on that. But I felt when we passed the Chafee amendment yesterday that we went quite a little further down the road than we had previously.

I am asking this question only because—and I want to say again, I support family planning—I do not think they should be involved in abortions. They say they are not involved in abortions. But the Chafee language of yesterday at least went further than we have ever gone previously.

It seems to me I should have a right to vote up or down on the amendment proposed by the Senator from Colorado and I do not see that would impair the bill in any way.

Mr. ARMSTRONG. Will the Senator yield for an answer to that question from me?

Mr. EXON. I am not sure I have the floor, since I was reserving the right to object. But I yield the floor.

Mr. ARMSTRONG. Mr. President, if I may respond to the Senator from Nebraska briefly, first to congratulate him on his understanding of the situation we found ourselves in and, second, to say the only way, so far as I can tell, we will be able to get to an up or down vote on the parent notification amendment is to defeat the motion which is or at some point will be pending to table the Lieberman amendment. Because, when I offered my amendment last night Senator KENNEDY did offer a second-degree amendment which expressed another thought on the subject but did not deal with parental notification, the effect of which was to simply wipe mine out. Under the circumstances I withdrew it.

Then today, when the Senator from Connecticut offered his amendment, I offered mine as a second-degree amendment. Therefore either the Senator from Connecticut or the Senator from Massachusetts has or will offer a motion to table.

To get to the vote the Senator from Nebraska desires and which I desire to have, and have quickly—I am not trying to delay in any way—we must first defeat the tabling motion.

I will have more to say, but that is a brief answer to the Senator's question. I thank him for his inquiry.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. There is an unanimous-consent request pending. Hearing no objection, the request is agreed to.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I inform Senators through their offices that there will then be a vote in approximately 30 minutes under the agreement just entered.

Mr. ARMSTRONG. Mr. President, while the leader is here, I have two related matters. First I thank the leader for getting us unsnarled, because at least under this agreement we will have a chance to debate the issues and clarify them so Senators will be able to make up their minds how to vote.

Second, I wonder if the leader would help me to get the yeas and nays on my amendment so in the event the motion is not tabled. Perhaps that is not necessary.

I guess I will not make that request because really I think all Senators will understand that a vote on the Kennedy motion or the Lieberman motion to table the Lieberman amendment will be tantamount to a vote on my amendment. So perhaps a separate yea and nay vote is really not indicated under the circumstances. But we are grateful to the leader for arranging that.

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

Mr. KENNEDY. Mr. President, since the Senator from Colorado is the proponent of the amendment, if he would like to speak to it at the outset?

The PRESIDING OFFICER. The Senator from Colorado [Mr. ARMSTRONG], is recognized.

AMENDMENT NO. 2888

Mr. ARMSTRONG. Mr. President, I yield myself 5 minutes of the 15 minutes that I have been allocated.

I would like to start by putting in perspective the actual purpose and intent of this amendment, because when we get to the vote, and I think I have the parliamentary situation well in hand here, we are going to vote on a motion to table the Lieberman amendment. But I believe the sponsor of the amendment, Mr. LIEBERMAN, understands, and I understand, we are not really voting on his amendment. What we are really voting on is to take down my amendment.

That is important to understand because there may be some who will be for the amendment of Senator LIEBERMAN who might want to vote to table it. There may be many of us who may have a different opinion on the Senator's amendment who would not want to vote to table it.

What we are really voting on when the time comes is whether we are for or against parental notification when a minor woman seeks to have an abortion which is provided by an entity or an organization which receives funds under title X.

If a Senator believes in the principle of parental notification or at least would like to have the opportunity for the Senate to vote on this issue, then Senators have to vote no on the motion to table the Lieberman amendment.

Before I discuss the merits of the proposed amendment on parental notification, let me say to my friend from Connecticut I am sorry that my amendment finds itself attached to his. He said something of the same thing to me privately, and I want to say publicly to him, it just happened; it is just the fortunes of war. It worked out that way. At the right time I will be happy to be helpful to him in getting his amendment before the Senate in the proper form in whatever form he desires it to be and to get him an up-or-down vote.

Mr. President, that is what life in the Senate is all about, is voting, making decisions, putting forth as clearly and as succinctly as it is possible to do issues of public importance, and then voting on them. The voting on them is important not only to determine whether they pass or fail but also so our constituents at home may understand what the issues are. That is why I so strenuously object to the repeated, insistent efforts by the Senator from Massachusetts to confuse this issue, to make it impossible for Senator to know, let along people at home who may be watching this on television or reading about it in the newspaper to figure out what is going on.

Frankly, I am a little mystified. I did not think this was a terribly controversial issue. Perhaps the vote will prove that it is not. I hope it is the case. Certainly there is no reason for it to be controversial. But I cannot figure out why it is anathema to the Senator from Massachusetts that we have a plain, vanilla, straight up-or-down vote which we could have had in about 15 minutes last night with no controversy so far as I am aware, because the principle of parental notification has not been, previously, at least in this Chamber, an item of controversy. I may be surprised when the vote comes, but I do not see why it should be controversial.

Let me just explain the elements of this very simple proposition. It is well known that any kind of a medical or surgical procedure which is performed on a minor requires parental consent in almost every jurisdiction of America. That applies to appendectomies, tonsillectomies, to heart surgery, to anything like that. It even applies to routine procedures such as donating blood.

Do Senators know that? If you are a 16-year-old and you want to give blood, which is a worthy thing to do, in almost every jurisdiction you have to have the permission of your parent or guardian. It is not necessarily the law, but I am told it is the nearly universal custom if you are a minor child and you go down to the shopping center to have your ears pierced that you have to get parental consent. But there is a surgical procedure for which that is not required, and it is abortion.

About 35 States have enacted legislation relating to parental involvement in the consent or notice process for abortion; about 35 States. In some States that has been the subject of litigation, and I do not want to brief my colleagues too much on the state of the law, but I will just tell them that all over America our counterpart colleagues in the State legislative bodies have determined that parental notification is a good idea.

The reason for it is obvious. We are talking about vulnerable young women at a time when they are facing what is, for many of them, a completely unexpected pregnancy, sometimes under tragic circumstances, facing life or death decisions for the child and for themselves which they are really ill-prepared to make by experience, and at a time when inevitably they are under enormous emotional and perhaps other kinds of pressure.

So the suggestion of this amendment is simply that a parent be notified. We are not even asking for consent. We are just asking for notification so that at least one parent—we do not say you have to notify both—but at least one parent will have the opportunity to give loving advice and counsel to a young women who finds herself in this kind of a situation.

Mr. President, this is a very narrowly drafted, very, very narrowly drawn amendment. We do not say in this amendment that you have to have the consent of the parent. We only say notification. We do not say in this amendment that it supersedes States law; on the contrary, this amendment is inoperative in any State which has in effect parent-involvement legislation, even if the parent-involvement legislation——

The PRESIDING OFFICER. The Chair informs the Senator the 5 minutes he yielded to himself has expired.

Mr. ARMSTRONG. I thank the Chair. I yield myself 2 additional minutes.

We do not say this legislation applies in any State that has legislation on this subject and has laws in effect. Nor do we say in the remaining States that this affects all abortions. In fact, we are only talking about a relatively small number of the total, because we say it only applies to those abortions which are performed by an entity or organization which is also a recipient of funds under title X.

This does not go very far. It does not go as far as—frankly, as I think would be well justified—to ask consent. It only says in this limited number of cases where title X recipients are involved that there ought to be notification to at least one, but not both, of the parents.

If we agree that that is a good idea, I say to my colleauges, or if we would like to vote on this subject, then I urge my colleagues, when the moment comes, to vote against the motion to table the Lieberman amendment, so that we will have a chance to vote on the Armstrong amendment.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Will the Senator from Colorado yield, or is there a time problem? I was just going to ask a question of clarification.

Mr. LIEBERMAN. On behalf of the Senator from Massachusetts, who controls the time, who yielded his time to me, I yield such time as is necessary to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator may proceed.

Mr. PRYOR. If the Senator from Colorado will illuminate me, I think that the Senator's amendment says that notification would be required for any of those entities or institutions, facilities, that were the receipient of title X funds.

I do not know what sort of institutions we are talking about. This is not just public health clinics; is that correct?

Mr. ARMSTRONG. Mr. President, if the Senator will yield, we are talking, in many cases, about Planned Parenthood. In fact, I entered in the RECORD yesterday—I do not know if I can turn to it quickly—a list of about 30 or 35 title X recipient organizations which perform abortions. I did so because when I raised this question last night, I was told by one Senator in a very loud voice that there are no funds for abortion in this bill; that title X does not fund abortions. Of course, that is true, but title X organizations do fund abortions.

What happens in a lot of cases, as a practical matter, is that you walk into a building and say, "I'm a young woman who has a problem. Could I talk to somebody?"

And you go to a desk that is the title X entity, recipient desk and you are counseled. One of the options you are told about is abortion. If you say, "That sounds like what I want to do," you are referred someplace else; not to a distant place, in a lot of mess, but to another office in the same building where the same organization provides abortion services. It is not even a case that they refer you across town. In a lot of cases, it is right there, a few steps away.

But the list of organizations, while others are speaking, I will be glad to look up. But it is in the RECORD from yesterday.

Mr. PRYOR. Mr. President, I thank the Senator from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Mr. President, at the urging and request of the Senator from Massachusetts, who controls 15 minutes, I yield myself so much of his time and I need to make my statement at this point.

AMENDMENT NO. 2887

Mr. LIEBERMAN. Mr. President, let me first explain why I proposed the amendment that is before the Chamber at this moment, and then explain my tabling motion.

Mr. President, whether we like it or not, oil is very much the lifeblood of the American economy. All of us know that since the Iraqi invasion of Kuwait, we have seen that lifeblood in danger. Certainly, we have seen its price rise so dramatically that it is hurting consumers, it is hurting American businesses, and it is seriously hurting our economy.

Mr. President, I have been so deeply troubled by these events because, to me, they make no economic sense whatsoever. The fact is that the supply of crude oil here in the United States, when this crisis began on August 2, was at an all-time high.

The reality is that even today there are no shortages in supply of gasoline or oil, and yet prices have gone through the roof. Gasoline prices, as every consumer and every businessman who has to buy gas to keep a car or truck going knows, are at an historic high. As the chill of winter begins to nip at people a little bit in the northern sections of our country and as they begin to buy home heating oil, they see that the price of home heating oil is 20 to 30 cents more per gallon than it was at this time last year—even though supplies are, in most sections of the country, greater than they were at this time last year.

So, in my opinion, the normal market factors, the laws of supply and demand that are usually fundamental to the market economy, are simply not working in the oil industry. There are many responses to that.

One, Mr. President, as you know because you and more than 20 of our colleagues have joined me as cosponsors, is to enact a national antioil price gouging law, which would give the President of the United States the authority to declare a national energy emergency in times such as this, and to impose an important series of standards on the oil companies. That bill would say through the law what is right, that in times of emergency you cannot increase the price of your product more than the actual increase in the cost that you face, plus a reasonable profit margin.

It is time, as one of our colleagues said, for the oil industry to take off the green eyeshades and take out the red, white, and blue American flag; to serve the interests of this Nation which are on the line in the current crisis.

Mr. President, I could talk at length about what I consider to be some of the unacceptable behavior of the American oil industry in the last month: The fact that they have been selling more gasoline abroad than they have at any other similar period—certainly much more than they did last year—just to make money, perhaps even to a point where they could cause a real supply shortage in this country; the fact that as they approach the end of this quarter, we read stories in the Wall Street Journal and New York Times that oil company executives are trying to figure out extraordinary ways to spend their money so that their profits are only enormous and not outrageously enormous in this quarter, which we all know they will be. That is why I think we need an oil price gouging law.

But what is at work here, as speculators and profiteers take advantage of this crisis, is psychology. It is the fact that prices continue to be bid up over and over again, as if this was some casual commodity and not oil, the lifeblood of our economy. I think what we have to try to do is to fight back and break through that psychology.

In my opinion, the President of the United States, this administration, has only one handy weapon to use to fight back, and that is the strategic petroleum oil reserve.

In the last decade or more, we have invested more than $15 billion of taxpayer money in putting almost 600 million barrels of crude oil into those salt domes along the gulf coast of the United States.

We put them there for a rainy day, and today, Mr. President, it is raining on our economy. What the President of the United States should do is use this weapon to fight back against profiteering and against speculation just as we are using the weapons at hand to fight back against Saddam Hussein in the deserts of the Persian Gulf region.

Mr. President, not to do this is like a man allowing himself to be punched in the stomach over and over again and not fighting back. That is exactly what the oil industry and OPEC are doing to the American economy. They are sending us day by day into a recession. Inflation in August went up eight-tenths of 1 percent, a dramatic increase over that month last year. Annualizing that number puts us at an almost 10 percent annual inflation, a terrible result for our economy.

Our trade deficit undoubtedly will go up as a result of these enormous increases in oil prices.

We have to do something, and the SPR is the way to do it.

I was motivated this morning to bring this resolution to this Chamber because I read an article in the Wall Street Journal that suggests there is a conflict among the advisers to President Bush. Secretary of Energy Watkins, the man who really knows most about energy, quite correctly has apparently advised the President that he should immediately tap into the oil reserve, perhaps to the tune of about one half million barrels a day. That would have a marvelous effect and send a signal to those markets that the United States is not going to allow speculation and profiteering to rule, that the President is willing to go into that reserve and move oil out into the market just the way the Federal Reserve moves money out into the economy as monetary policy dictates.

Unfortunately, the Secretary of Energy is not supported by all the Members of the Cabinet. He is supported, according to the Wall Street Journal today, by the Secretary of State and the Secretary of Transportation. But apparently the Secretary of Commerce and the Secretary of the Treasury do not yet believe we should tap the SPR, apparently relying on the argument that the SPR should only be used when there is an actual shortage of fuel.

Sure, when there is an actual shortage of fuel, we are going to need the reserve. But even if we tap the reserve now, there will be plenty that will remain to use at that time. Today what is killing our economy is speculation and psychology, and the surest way to undercut it is by dipping into the reserve. By putting that extra oil out on the market I believe you would see the price of crude oil go right down and also, I hope, the prices charged to consumers and businesses for gasoline and heating oil.

That is why I offer this sense-of-the-Senate resolution. The intent is very clear. It is to put the Senate on record expressing to the President of the United States our strong encouragement that he use the strategic petroleum reserve as a way to help lower gasoline, home heating oil, and propane prices in this country.

Why do I move to table my own amendment? I moved to table because the very essence of my original amendment was to send a clear message to the President that a majority of Members of the Senate believe that he should use the strategic petroleum reserve. In the exercise of the processes of this Chamber, Senator ARMSTRONG has now added his amendment on parental notification to my amendment on the reserve. That inevitably makes cloudy and unclear the vote on my amendment urging the President to dip into the reserve. It undercuts the very purpose for which I introduced my amendment. As it stands now, if it came to a straight up or down vote, some would vote for or against my amendment because they favor or oppose parental notification. At the same time, some would be voting for or against my amendment because they favor or oppose the immediate use of the strategic petroleum reserve. In any case, the message would not be clear.

That is why I have moved to table. That is why I hope my colleagues in the Chamber will support this motion. I hope that before too long I will have the opportunity to have a clear, straight, unamended, up or down vote in which the Senate can plead with the President to use the weapon he has at hand to do whatever he can to fight profiteering and speculation and gouging of American consumers and American businesses when they buy gasoline, home heating oil, or propane.

I ask unanimous consent that the text of my sense-of-the-Senate resolution be printed at this point in the RECORD.

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

Calling upon the President to initiate a modest use of the Strategic Petroleum Reserve to stabilize the crude oil market.

Since Americans are deeply concerned about the impact of the Iraqi invasion of Kuwait on the world supply and price of crude oil and on the price of refined products—like gasoline and heating oil—that the American consumer will have to pay and the American economy will have to absorb;

Since the Department of Energy now estimates that most of the crude oil production lost because of the Iraqi invasion of Kuwait will be offset by increased production around the world;

Since crude oil markets remain unstable and volatile, causing the price of crude this week to exceed forty dollars per barrel and leading some experts to conclude that it may reach sixty dollars per barrel;

Since the latest economic indicators show that even before Iraq's invasion of Kuwait the American economy was slowing such that the recent increases in the price of oil and oil products now threaten seriously to disrupt our economy and begin a recession;

Since the substantial increases in oil and oil product prices will severely affect those who can least afford it, including rural and urban poor, home heating fuel users, and small communities relying on oil-fired electric power generation;

Since the United States Strategic Petroleum Reserve now contains almost 600 million barrels of oil, and Japan's strategic reserves contain 200 million barrels: Now, therefore, be it

Determined, That the Senate requests the President to initiate a limited use of the United States Strategic Petroleum reserve, that at the next meeting of the International Energy Agency this weekend he urge other members of the International Energy Agency to do likewise, and further that he coordinate, and urge IEA to coordinate, such a multinational use of strategic reserves with the other members of IEA.

Mrs. KASSEBAUM. Mr. President, the administration is in the midst of a sharp debate as to whether we should tap the strategic petroleum reserve. I rise today to urge the President to take exactly that course and to do so quickly. The price of oil is shooting back up again today to $40 a barrel, a sharp increase from the price of oil prior to the Iraqi invasion of Kuwait.

The reserve was established in the mid 1970's in order to protect against the repetition of the economic dislocation caused by the 1973-74 Arab oil embargo. Its purpose, as we are all well aware, was to help calm markets and mitigate sharp price spikes. That is precisely the situation today in the wake of the Iraqi invasion.

Some are arguing that we should not tap the reserve unless there is a "severe energy supply interruption" as stipulated in the authority establishing the reserve. But, Mr. President, the fact of the matter is that we are going to see the same dislocation not because of a shortage of oil but because of the psychology affecting the markets. While the supply of oil is certainly sufficient, the psychology driven market jitters were evident once again today when a story in the Wall Street Journal suggesting that the President might tap the reserve resulted in an initial lowering of prices.

In my view, Mr. President, the reserve was set up to help prevent economic dislocation. The cause of that dislocation, whether supply or psychology, should not be the determining factor as to whether we tap the reserve.

Most economic analysts agree that the rise in oil prices as a result of the Iraqi invasion is the single most important factor that will drive our economy into recession. The one instrument we have to combat this sharp price rise and an impending recession is the strategic petroleum reserve. I believe it is an instrument we should clearly use. Many Americans and businesses are going to suffer greatly this winter if oil prices maintain or continue their sharp increase. If this is not the type of crisis that would warrant tapping the reserve, it is difficult to understand when we would use it.

I would also like to point out, Mr. President, that the administration's proposal to sell 500,000 barrels a day from the reserve would not deplete the SPR for 1,200 days or 4 years. Furthermore, if the reserve was tapped we would be selling that oil at a profit for the Government. And, once prices decline we could once again refill the reserve.

I would urge the President to back the proposal and to work with other oil consuming nations at Friday's

International Energy Agency meeting to take a similar course.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Senator KERRY be added as a cosponsor of my amendment.

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

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

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Colorado has 8 minutes 46 seconds.

Mr. ARMSTRONG. Mr. President, I would like to reserve that time if I may. I have two Senators who indicated they wish to speak. I think they are on the way to the floor now. So if I may, I will reserve that time unless someone else seeks recognition. I suggest the absence of a quorum. My suggestion is that the quorum not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. 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. ARMSTRONG. I would like to yield 1 minute to the Senator from Idaho and then 4 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 minute.

Mr. McCLURE. Mr. President, I thank the Senator from Colorado for yielding this time. I will take a very brief moment to say that I am opposed to the Lieberman resolution. However, I will vote against the motion to table because I think the real issue is the Armstrong amendment, not the Lieberman resolution to which I am opposed because I think it is bad energy policy, and at an appropriate time I will address the Senate with respect to the policy questions on the Lieberman amendment.

Let me summarize very quickly and state it is my understanding that the Secretary of the Department of Energy is not in favor of this resolution, is opposed to such a drawdown, as is the Department of State. So I think it would be wrong to characterize this at this point as anything other than the fact is that the official position of the administration is in opposition to the drawdown of the SPR at this time for economic reasons.

Mr. President, on many occasions since the 1973 Arab oil embargo, I have spoken on the adequacy of the U.S. energy emergency preparedness. I have emphasized that the evolution of national policies in this critical area must be a dynamic, not static, process. However, for the last 10 years this has not been the case.

The cornerstone of our energy insurance policy is the strategic petroleum reserve. Fourteen years have passed since the Congress initially authorized the strategic petroleum reserve. Successful completion of the reserve was considered a monumental task by all the affected parties. Nevertheless, due to the support and dedication of many individuals by the end of this year, the SPR will contain almost 600 million of the currently authorized 750 million barrels.

Mr. President, what energy emergency preparedness we possess as a Nation, relies on the Energy Policy and Conservation Act, both domestically and internationally. Two weeks ago the Congress passed, and the President signed, S. 2088, which extended these critical authorities for an additional 4 years and strengthened the strategic petroleum reserve.

Under current law, drawdown of the SPR is controlled by the President, based on national energy security and economic concerns, and I believe that Presidential control has been retained in the conference agreement. Under current law, use of the strategic petroleum reserve is restricted to responding to shortages of international energy supplies. Existing statutory authority is quite clear on this point; the law does not permit SPR drawdown short of a severe interruption in international energy supplies, or in order for the United States to meet its international energy obligations. Unlike the pending resolution, the SPR was not, and should not be, used to manipulate world oil prices.

Consumer complaint about prices is insufficient reason for Government to intervene in the market place and manipulate or dampen energy prices in any manner. Any suggestion that the SPR be used for other than responding to actual shortage of energy supplies would not only be short-sighted but it would risk not having the SPR available should an actual shortage occur, later.

The prices being experienced are caused by international price fluctuations caused by speculators. No shortage currently exists. I want to repeat that no shortage currently exists. According to EIA, all but about 1 million barrels of the Iraqi-Kuwait production has been made up from other producers, and it is not expected that shortages will be experienced this winter.

For years, certain regions of the United States have benefited from low oil prices while the oil producing regions of the United States have experienced recession as our domestic oil and gas-production continues to decline. What infrastructure existed has been decimated by crude oil costs that do not support the development of replacement domestic supplies.

Mr. President, I continue to be disturbed by efforts by some Members to transform the Strategic Petroleum Reserve into a mechanism for responding to price fluctuations in the market, both now and last winter. The Reserve is a national resource that must be available for all American consumers during periods of shortage.

I recognize that certain regions of the United States are becoming increasingly dependent on petroleum product imports, but the problem is the inadequacy of our current domestic refining capabilities and this is a national problem. Even at today's prices, refined products are being exported because U.S. prices are less than those in Europe.

I must observe, however, that this situation, in large part, was created by our failure to achieve a balance between national energy and environmental policies. One of the manifestations of this failure is inadequate domestic refining capabilities to meet national needs.

Domestic refineries are now operating at full capacity. Drawdown of the SPR would flood the domestic market at a time when refinery capacity does not exist, because there is no actual shortage. Rather there is international price speculation.

In many instances, the very regions that are concerned about refined petroleum product prices, are the same regions that are closing refineries under current environmental policies, or have prohibited their construction over the years. By advocating use of the SPR at this time, these same regions are now asking the rest of the country to subsidize their failure to achieve a balance between the energy and environmental requirements of their region.

Once again this failure is being reflected in the agreements being discussed on the Clean Air Act Amendments of 1990. Rather than address this imbalance, we are once again, exporting our environmental pollution and importing more energy.

Mr. President, on the international front there is the International Energy Agency, which continues to credibly perform the information and other functions that we and our allies must rely upon to deal with potential international energy shortages. The IEA information system is critical to our understanding of international oil markets. The IEA continues to serve as an essential catalyst in this process.

The IEA governing board will meet again this Friday and should be allowed to function as provided for by the International Energy Agreement.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 4 minutes.

Mr. NICKLES. Mr. President, I wish to associate myself with the remarks of Senator McCLURE because I also rise in opposition to the underlying resolution offered by our friend and colleague, Senator LIEBERMAN, primarily because of the language "It is determined that the Senate request the President to initiate limited use of the strategic petroleum reserve," and on and on. I do not know that right now we should be doing that. I think the primary purpose of that would be to try to use the SPR oil for price control purposes, not to ease shortages. The strategic petroleum reserve is for shortages, not for price control. So I am in opposition to the Lieberman resolution. But I, like Senator McCLURE and others, will vote against the motion to table because it is quite obvious the motion to table was not really directed at the Lieberman resolution. It was directed at the Armstrong second-degree amendment, which basically deals with parental notification for minors, persons under the age of 18, if they are going to have an abortion. This says that the parents of that child need to be notified. I think they should be notified. I think it might save a lot of young women from making a mistake.

I think the parents should have a voice in that decision. That is still a minor. The girl is still a minor. She happens to be carrying a child. She has a difficult decision to make. Her parents should be notified. They should consult with her.

Granted, not every family has good relations. Not every young daughter would like to talk to her parents about a decision like that but it happens to be a decision of life and death. It happens to be a decision that she is making concerning abortion that will take the life of her unborn child.

So in a decision of that magnitude, while she is still a minor, her parents should be notified. That is exactly what the amendment of the Senator from Colorado does. I congratulate him for it.

I also will mention the subject of procedure. The Senator from Colorado has been trying to offer this amendment from the late hours last night to all day today. I, likewise, have an amendment I would like to have considered on this bill. It is quite obvious that we have been obstructed from doing so. I, personally, am getting somewhat irritated that on the day we file a bill we have cloture filed with it and, therefore, are prevented offering our amendments.

Some of these amendments will make these underlying bills better. The Senate is supposed to be a deliberative body. We are supposed to have input. Part of the input is through the amendment procedure. By filing cloture on every single bill—we will have two cloture votes today—I think the entire cloture procedure is certainly being abused. The rights of minorities are being abused. We are being denied the opportunity to offer amendments because all Senators know, once cloture is invoked, the subsequent amendments that would be determined germane are few and far between. It is very restrictive under post-cloture.

So here we are denied the opportunity to make constructive inputs, constructive inputs such as the Senator from Colorado has on this amendment. This is a good amendment. This is an amendment that I expect will pass overwhelmingly.

So I urge my colleagues to vote against the tabling motion so we can keep the Armstrong amendment alive, and maybe we can have an up and down vote on the Armstrong amendment. This is an important amendment. This amendment can save lives. This amendment can keep a lot of young women from making a bad mistake, a serious mistake.

So again, I congratulate my friend and colleague from Colorado for bringing his amendment. It is unfortunate it had to be brought in a second degree to a resolution that has nothing whatsoever to do with family planning. But he had no choice because, frankly, the leadership on the bill was not giving an opportunity to have up and down votes on the underlying legislation. So he had to revert to this procedure.

I compliment him for it. I urge my colleagues to vote against the motion to table.

Mr. WIRTH. Mr. President, every year, more than 1 million young women between the ages of 12 and 19 become pregnant. Estimates are that 4 in 10 young women will become pregnant at least once while still in their teens. The vast majority of these pregnancies are unplanned and unwanted. The question we are facing today is whether it should be mandatory for these young women to obtain parental consent or notification before seeking an abortion.

In many cases, thankfully, teenagers will turn to their parents for help with an unwanted pregnancy. One study indicates that 55 percent of teenagers under 18 who obtain abortions at clinics have already told at least one parent about their pregnancy and planned abortion. Most of these teenagers will benefit from parental guidance when faced with an unwanted pregnancy. However, this may not be true in all family situations.

There are those young women who come from abusive or otherwise dysfunctional families who may be exposed to emotional trauma and physical danger if required to tell their families about an unwanted pregnancy. About 25 percent of young women who become pregnant would avoid telling their parents about their plans to terminate an unwanted pregnancy. These typically are young women who want to keep their pregnancies a secret, and almost always have sound reasons. They know best how their family would react in this situation, and I do not believe the Federal Government should be making this kind of decision for young women.

This amendment could cause great pain for many unstable, troubled families. Passing this today cannot transform abusive families into supportive ones, nor will it reduce the alarmingly high rate of teenage pregnancy. Instead, this amendment will only add to the crushing problems faced by pregnant low-income teenagers.

Let me touch on this a moment—the amendment continues to distance the rights of the affluent versus the poor. People who need to go to title X clinics to obtain family planning services—and perhaps an abortion—are generally low income. We all know that title X funds, in fact no Federal funds can be used to perform abortion. Yet, low-income young women needing services would be required, under this amendment, to notify their parents—simply because they are going to a clinic that receives Federal funds. But these are not funds that will be used to pay for that service. So once again, we would be infringing on the rights of only those lower income women.

There is another important thing to look at when we consider the ramifications of this amendment. To prevent an unwanted pregnancy from becoming a health danger for teenagers, we must ensure that young women have access to confidential counseling, contraception, and abortion services, as well as prenatal care. We are putting their lives, safety, and their health at stake.

Mr. President, we all would like to see parents actively involved and supportive in their children's lives. Sad but true, that is not always the case in our country. I strongly support the efforts of title X clinics to recommend that its teenage clients talk to their parents—before they need contraceptive services or make any other health-related decision. However, we cannot force this to happen by infringing on their constitutional rights.

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

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Colorado controls 3 minutes 21 seconds.

Mr. ARMSTRONG. I doubt if I will even use as much as 3 minutes because I think the issue has been well framed. I am very grateful to my friend from Oklahoma for his explanation of this issue, for his kind words and, most of all, for his day in and day out patient interest in this important human life issue. There are very few Senators

that have on every occasion stood up to be counted as he has. I thank him for it.

I am grateful, too, to my friend from Idaho for clarifying the question. This is not about energy policy. It is about parental notification when a minor child seeks abortion. I honestly wish it could have been framed in a different way, too. There are a lot of ways that I would have raised it that would have been much simpler. I tried to do that last night.

I guess it was obvious to anybody, who was here last night or who watched the proceeding on television, that my nose was a little out of joint, and it was because I felt the opportunity for the Senate to have a fair shot at this policy issue was being unfairly and unwisely undermined. That is not the first time this has happened.

This pattern of laying down a bill, immediately filing a cloture petition, tying up the amendment tree so Senators do not get a chance to present amendments really has gone much too far. I was angry about that. I am still angry about it. That is not the issue involved in this vote. This is not a question of how you felt about the amendment tree. It is not a question about how you feel about the procedure, about whether you think we ought to have cloture on bills. Those are all questions that need to be thought about.

The question here is whether you are for or against a requirement that those entities which receive funds under title X, and which also happen to perform abortions, should be required to give a 48-hour notice by certified mail to at least one parent of a minor woman who is contemplating an abortion in that group of States where the State legislatures have not already legislated and preempted the field.

It is a very modest requirement, a very simple requirement, a very logical requirement if you agree with that idea. If you agree with parental notification, then you vote no on the motion to table the Lieberman amendment.

Mr. President, I do not know if I have remaining time. If I do, I yield it all to my friend from Utah [Mr. HATCH].

The PRESIDING OFFICER. There are 55 seconds left. The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank my colleague, because I rise in support of Senator ARMSTRONG's amendment which would require grantees to ensure that they have mandatory parental notification rules. Specifically, it would require 48 hours notification of one parent or legal guardian of an unemancipated minor child undergoing abortion.

For every other medical procedure performed on a minor a doctor must get the consent of the parents, except for abortion which is permitted without the parents' consent, or even their knowledge. It is ridiculous. It is time we changed that.

If you want to change it, then you ought to vote no on this motion to table. It is the only way we will have a chance to vote on Senator ARMSTRONG's amendment. It is really an important issue. This is not something that is frivolous. This is something every one of us ought to be for if we are for families, children, and for parents, and for them getting along with each other.

The PRESIDING OFFICER. The Chair will inform the distinguished Senator that under the time agreement, the time has expired.

Mr. ARMSTRONG. Do I have any remaining time on the amendment?

The PRESIDING OFFICER. The Senator does not.

Mr. ARMSTRONG. On the amendment itself?

The PRESIDING OFFICER. The Chair would inform the Senator that the Senate agreement was the time was placed prior to a vote on the motion to table. A motion to table is not a debatable motion.

Mr. ARMSTRONG. Do I have time on the amendment itself?

The PRESIDING OFFFICER. Not at this time.

Mr. HATCH. Mr. President, I ask unanimous consent I be given another minute.

Mr. ARMSTRONG. I was not seeking time. I was trying to clarify the situation.

Mr. HATCH. I ask unanimous consent that I be given another minute and a half, if I can.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. Mr. President, I thank the Chair because this is an important issue. This is not some nonessential issue. This is one of the most important issues to ever come before the Senate.

We should never support Federal policies which drive a wedge between the parents and their children. The Armstrong amendment corrects this. Parents would be notified 48 hours prior to the minor child's obtaining an abortion, and we have to be supportive of families and parental authority. States have adopted such laws. Utah is one of them. State leaders have recognized their strong interest in protecting the welfare of minors and promoting the family integrity. This amendment would require title X grantees to notify parents.

I provided evidence yesterday that 32 clinics receiving title X funds, 32 of them, have abortion right on the premises. They just moved from the counseling office right into the abortion clinic and have it done.

I really urge my colleagues to consider this. I urge them to vote no, to table the Lieberman amendment. It is a yes vote for parents, for children, and for their role in society. It is the right thing to do. And in the end we send a message out there that we are concerned about families, about parents, about children, and yes, about everything else that goes on. This is important. I hope that everybody will vote "no" on this motion to table. It is an important amendment.

I want to congratulate the distinguished Senator from Colorado for having the guts to bring it to the floor and to pursue it until we got here. Vote no on this amendment and you are voting for parents, family, and children.

Mr. LIEBERMAN. Mr. President, I yield myself such time as remains for our side.

Mr. President, I ask unanimous consent that Senator AKAKA be added as a cosponsor.

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

Mr. LIEBERMAN. Mr. President, I also ask unanimous consent that an article from today's Wall Street Journal entitled "Bush Administration Splits on Proposal To Sell Oil Reserves To Help Ease Prices be included in the RECORD.

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

BUSH ADMINISTRATION SPLITS ON PROPOSAL TO SELL OIL RESERVES TO HELP EASE PRICES

(By Alan Murray)

WASHINGTON.—As oil prices soar, the Bush administration is split over a proposal from the Energy Department to sell a half million barrels a day from the nation's Strategic Petroleum Reserve.

Energy Secretary James Watkins offered the proposal at a meeting of the president's National Security Council last week, arguing it would help moderate increases in oil prices, according to people at the meeting. Although there is currently no shortage in the supply of oil, the Energy Department plan would put a million more barrels of oil a day onto the market as soon as possible, with half coming from U.S. reserves and the other half coming from Japanese and German reserves.

The proposal was supported by the State and Transportation Departments. But Treasury Secretary Nicholas Brady argued strongly against it, according to sources at the meeting. And Commerce Secretary Robert Mosbacher, who was represented at the meeting by his counselor, Wayne Berman, was also opposed.

President Bush, who presided over the meeting but gave no hint of his leanings, is expected to make a decision on the plan as early as this week. If the president decides to back the proposal, U.S negotiators at Friday's meeting of the International Energy Agency in Paris are likely to try to reach an agreement with Japan, Germany and other oil-consuming nations that hold reserves.

Mr. Brady, the strongest opponent of the plan at the security council meeting, argued that future markets suggest oil prices may be headed down, not up, the sources said. He compared intervention in oil markets to his own experience as Treasury secretary in-

tervening in foreign-exchange markets, saying that any such action must be well timed and well thought out.

The steep rise in oil prices this week has tended to undercut Mr. Brady's arguments and put even more pressure on the White House to back the Energy Department plan. There's no indication that Messrs. Brady or Mosbacher have dropped their opposition to the plan.

Mr. Mosbacher's role in opposing the Energy Department plan has raised some eyebrows both inside and outside the administration. Mr. Mosbacher built a fortune in Texas oil fields valued at an estimated $200 million, and still owns huge interests in the family businesses, which own oil-producing properties in Texas and Louisiana. Some critics say a decision not to tap the reserves would keep oil prices high and thus boost Mr. Mosbacher's personal wealth.

"It's highly inappropriate" for Mr. Mosbacher to be involved, said Edwin Rothschild, energy policy director at Citizen Action, a Washington lobbying group on consumer and labor issues. "The man stands to gain a lot of money from not using the Strategic Petroleum Reserve. There is certainly a vested interest on the part of anyone who has crude oil—and Mosbacher has a lot."

Before the Persian Gulf crisis began, Mr. Mosbacher recused himelf from any consideration of energy issues. But President Bush waived their recusal last month, saying he needed Mr. Mosbacher's advice in the current crisis.

Mr. Berman, counselor to the commerce secretary, said that Mr. Mosbacher is simply providing advice to the president, and not making decisions that affect the oil industry. Moreover, Mr. Berman said, Mr. Mosbacher has "taken no position on whether or not you draw down the strategic petroleum reserve." Rather, he said, the commerce secretary argued against the Energy Department proposal because the president needs more time and information before making a decision.

Mr. LIEBERMAN. Mr. President, the debate on my motion to table just confirms my decision to make the motion to table my own amendment, because the purpose of my amendment was to send a clear message to the President of the United States that he cannot sit by while our economy is being dragged into recession by enormously increased oil prices; he cannot sit by while every American consumer and every American business is being sent into tremendous economic difficulty by rising gas, oil, and propane prices. He must use the weapon he has at hand to break through the psychology of the speculators, the profiteers and the gougers; that is, as his own Secretary of Energy, according to this article in the Journal today, recommends: To use the strategic petroleum reserve. A sense-of-the-Senate resolution only makes sense if it sends a clear message to the President.

Here I have had two of my colleagues who oppose my amendment saying they are going to oppose my motion to table, because they support Senator ARMSTRONG's amendment on parental consent. The issue that I attempted to raise has clearly been confused. The message will be unclear. That is why I made my motion to table and why I hope it will be adopted.

Mr. LEVIN. Mr. President, I am a cosponsor of Senator LIEBERMAN's resolution calling on the President to release strategic petroleum reserve stocks. Unfortunately, the parliamentary situation is such that we will not be able to have a clear vote on this resolution and I will be joining the author of the resolution in voting to table it.

It is, nevertheless, important that we still make clear to the President that the administration must take direct action soon on the domestic front to prevent an oil-driven recession.

The price of crude oil is hovering near the $40 per barrel mark. The price of No. 2 heating oil has nearly doubled since the invasion. These huge price increases have brought the general inflation rate up to 5 percent and the inflation rate for energy almost 10 percent. Consumers and markets are fearful of worse things to come, especially as we head into a winter which the National Weather Service has projected will be colder than usual.

The administration assures us that there is sufficient supply to meet the demand of an energy-conserving American public. But, in fact, there is a shortage. Price reflects supply or projected supply. That is what the market is all about. The market is speaking and it is telling us there is a shortage. Let us listen.

Mr. President, that is where we are now. We must do whatever we can to calm markets and provide consumers with some relief. Above all, we must seek to prevent lasting economic damage. By releasing some SPR stocks, the President will be able to do that.

Until now, many sources within the administration had suggested that the President lacked the authority to drawdown the SPR, unless there was a "severe supply shortage." That is no longer the case. The President, himself signed into law not more than 2 weeks ago, legislation initiated by Congress to provide the President with more flexibility in defining a domestic energy supply shortage. With this resolution we call upon the President to exercise that flexibility.

We also believe that International Energy Agency member countries, especially countries like Japan and Germany which benefit greatly from the American-lead multinational force protecting further Iraqi aggression, should draw down their emergency reserves in a coordinated fashion immediately. They must share their part of the burden of defending the world's oil supply.

I urge my colleagues to table this resolution, and ask them to be prepared to consider this issue again sometime in the near future.

Finally, Mr. President, with respect to the Armstrong second-degree amendment, I believe that a minor who is pregnant needs and deserves the support and help of adults who care. I believe that a requirement for adult involvement is appropriate. It should allow minors who cannot turn to their own parents to go to a supportive family member or adult or judge, not to make or veto the decision, but for consultation. The Armstrong amendment does not even contain a judicial bypass provision by which a minor could consult with a judge in lieu of parental notification. In addition, the Armstrong amendment would require parental notification even in instances of incest, in which the family situation which gave rise to the pregnancy in the first place might make such notification inappropriate.

So, Mr. President, I believe that except in unusual circumstances parents should be notified and should be involved. But, the Armstrong amendment makes no provision for such unusual circumstances. I am, therefore, unable to support it.

VOTE ON MOTION TO TABLE AMENDMENT NO. 2887

The PRESIDING OFFICER. All time is yielded back.

The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kentucky [Mr. MCCONNELL] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that the Senator from New Hampshire [Mr. RUDMAN] is absent due to a death in the family.

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

The result was announced—yeas 43, nays 54, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—43

Adams	Harkin	Mitchell
Akaka	Heinz	Moynihan
Baucus	Hollings	Packwood
Biden	Inouye	Pell
Bingaman	Jeffords	Riegle
Bradley	Kennedy	Robb
Burdick	Kerrey	Rockefeller
Cohen	Kerry	Sanford
Cranston	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
Dixon	Leahy	Simon
Dodd	Levin	Specter
Fowler	Lieberman	Wirth
Glenn	Metzenbaum	
Gore	Mikulski	

NAYS—54

Armstrong	Byrd	Domenici
Bentsen	Chafee	Durenberger
Bond	Coats	Exon
Boren	Cochran	Ford
Boschwitz	Conrad	Garn
Breaux	D'Amato	Gorton
Bryan	Danforth	Graham
Bumpers	DeConcini	Gramm
Burns	Dole	Grassley

Hatch	Lugar	Reid
Hatfield	Mack	Roth
Heflin	McCain	Shelby
Helms	McClure	Simpson
Humphrey	Murkowski	Stevens
Johnston	Nickles	Symms
Kassebaum	Nunn	Thurmond
Kasten	Pressler	Wallop
Lott	Pryor	Warner

NOT VOTING—3

McConnell	Rudman	Wilson

So the motion to lay on the table the amendment (No. 2887) was rejected.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

Mr. ARMSTRONG. I ask the Senator from Massachusetts if he would withhold that request for a minute.

Mr. KENNEDY. Yes.

Mr. ARMSTRONG. I thank the Senator from Massachusetts.

If he would withhold for a minute, it would be helpful just to explain that during this quorum call, we are going to work out how to handle the underlying amendment. We are sort of part way through the process, and I have asked the Senator from Massachusetts how he chooses to proceed.

One way, and probably the most expeditious way, would be simply now to adopt my amendment by a voice vote, and then I think excise the Lieberman amendment from the remaining amendment, and then adopt the rest of it by voice vote.

Senators should know that I do not intend to ask for a rollcall if we can proceed in that way, but that will be up to other Senators.

I thank all Senators for their support.

Mr. KENNEDY. If the Senator wants to proceed in that particular way at this time and make such a request.

Mr. ARMSTRONG. I will be happy to.

Mr. McCLURE. Mr. President, was the motion to table the motion to reconsider agreed to?

The PRESIDING OFFICER. No; the motion to reconsider was made. There was not a subsequent motion to table the motion to reconsider.

Mr. McCLURE. I move to table the motion to reconsider.

The PRESIDING OFFICER. Without objection, it is so ordered. The motion to reconsider is tabled.

Mr. ARMSTRONG. Mr. President, at the suggestion of the Senator from Massachusetts, I would formally suggest and in fact ask unanimous consent that we proceed in the manner I just outlined; that is, as follows:

First, to adopt the second-degree amendment, my amendment, by a voice vote; and then to further amend the amendment by striking the Lieberman language that appears in the amendment, which I believe the Senator feels is defective and should be considered separately; and then to proceed to the adoption of the Lieberman amendment, as amended.

May I state it in that way, may I ask the Chair?

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I would like to object temporarily, if I might, and explain my previous vote. I previously voted no because even though I was in favor of tabling the Lieberman amendment, I voted no because I felt that Senator ARMSTRONG was deserving of having his amendment voted upon. He has been patiently waiting for a chance to vote on his amendment. As I understood the situation around here, he was not allowed that opportunity.

I disagree with his amendment, but I think he should have a chance to have it voted upon. So I would not want any indication from that prior vote to be taken that I support Senator ARMSTRONG's amendment, which I do not. And if there is a voice vote, I certainly wish to have it noted in the RECORD that I am opposed to the Armstrong amendment.

But in the proceedings around here, Senator ARMSTRONG was prevented from getting an up-or-down vote on his amendment, and he is entitled to that. So in order to give him that, I voted no on the Lieberman amendment, knowing that next would be the Armstrong amendment.

Now, if the managers want to have a voice vote after looking at the situation, that is their prerogative. I certainly want to make it clear that I do not support the Armstrong amendment. But he is entitled to a vote up or down. If the managers want to do it by a voice vote, that is their prerogative.

Mr. WALLOP. Reserving the right to object.

Mr. President, I reserve the right to object, and I shall object, I think, to the the manner in which the request was phrased.

It sounded to the Senator from Wyoming as though the Senator from Colorado was making as part of his unanimous-consent request that, after having divided and separated the Lieberman amendment and the Armstrong amendment, we would adopt the Lieberman amendment. I am not prepared to have that done by unanimous consent.

If the Senator's request is that we would proceed to consider the amendment, then I have no objection. But I thought the phrasing was a bit narrow.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, first let me say I am not insistent on this procedure at all. I am glad to go to a recorded vote in any way. I thank my friend from Rhode Island. In fact, I pointed out to him during the rollcall, first, I was grateful for his support, but also I did not want there to be any confusion and that he should make the kind of statement he just has made.

But my recommendation and what I asked unanimous consent for is the adoption of my second-degree amendment and then that the amendment further be amended by removing the Lieberman language, excising it from the amendment, and then the amended amendment be adopted. So the effect would be to drop the Lieberman language out, which I believe is agreeable to the sponsor of the resolution, Mr. LIEBERMAN. It would not be to adopt but actually to delete.

Mr. WALLOP. I withdraw my objection, having had that explanation.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Colorado? Is there objection? Without objection, it is so ordered.

Mr. ARMSTRONG. I thank the Chair, and I thank all Senators.

The PRESIDING OFFICER. The Senator from Louisiana.

Will the Senator from Louisiana please withhold? The Senate is not in order. Those Senators who do not have business before the Senate please adjourn.

The Senator from Louisiana.

AMENDMENT NO. 2888

Mr. HATCH. Mr. President, a parliamentary inquiry. Have we adopted the Armstrong amendment pursuant to that unanimous consent?

The PRESIDING OFFICER. The unanimous consent, as stated by the Senator from Colorado, has been adopted.

The question is not on the amendment of the Senator from Colorado. The Senator from Louisiana has the floor.

Mr. ARMSTRONG. Mr. President, I appologize to the Chair. Could the Chair restate what is before the Senate?

The PRESIDING OFFICER. The matter before the Senate is the amendment by the Senator from Colorado.

Mr. NICKLES. Were the yeas and nays ordered?

Mr. ARMSTRONG. I beg the Chair's pardon. I thought by unanimous consent my amendment had been adopted.

The PRESIDING OFFICER. By unanimous consent, the Senate is now on the amendment of the Senator from Colorado, but a vote on that amendment must still be taken.

Mr. ARMSTRONG. This is the second-degree amendment?

The PRESIDING OFFICER. That is correct.

Mr. ARMSTRONG. Just to clarify——

The PRESIDING OFFICER. The Senator from Colorado will be advised the Senator from Lousiana has the floor.

Mr. ARMSTRONG. I beg the Senator's pardon. The pending business is my second-degree amendment?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. Did the Senator from Colorado wish to have a voice vote on his amendment at this time? I did not want to interfere with that. I wanted to discuss the Lieberman amendment for a few moments, but I did not want to interfere if we are to have a voice vote on that without further debate. Is that what the Senator wished?

Mr. ARMSTRONG. I apologize to the Senator, I did not hear what he said. I did not understand.

Mr. JOHNSTON. I say, did the Senator wish to have a voice vote at this time on his amendment without further debate? If that is so, I yield for that purpose. Otherwise, I will go ahead and discuss for a few minutes the Lieberman amendment.

Mr. ARMSTRONG. I thought by unanimous consent we had adopted my amendment in the second-degree, had dropped the Lieberman amendment, and then had adopted what was left. If that is not the case we ought to clarify it and start back through again.

Mr. HATCH. Will the Senator yield?

Mr. ARMSTRONG. May I ask the Chair, is that not what we agreed to?

The PRESIDING OFFICER. The business before the Senate is the Armstrong second-degree amendment.

Mr. ARMSTRONG. To the Lieberman amendment.

Mr. President, to avoid further confusion, I ask for the yeas and nays on the Armstrong amendment.

The PRESIDING OFFICER. Is there a sufficient second?

The Senator from Massachusetts.

Mr. KENNEDY. I understood that the unanimous-consent request included a voice vote. Am I not correct?

The PRESIDING OFFICER. That is correct. We have not taken the voice vote.

Mr. KENNEDY. As I understand it, there was no objection to taking that as a voice vote; is that correct?

Mr. ARMSTRONG. If we review the request I put before the Senate, though I referred at one point to a voice vote, in my request I just said I ask unanimous consent the amendment be considered adopted.

I was told you cannot actually preclude a rollcall vote by unanimous consent, so my request was not for a voice vote but for the adoption of the amendment, and I thought that was what was agreed to.

Mr. KENNEDY. Mr. President, I ask the reporter to read back.

Mr. ARMSTRONG. I am not trying to be cute about it, and I am sure the Senator from Massachusetts is not either. That is what I thought would be the most expeditious way to handle it, and I still think so if the Senator from Massachusetts agrees.

Mr. KENNEDY. Yes.

Mr. SARBANES. Let us have a voice vote.

Mr. HATCH. I urge adoption of the amendment.

The PRESIDING OFFICER. The matter before the Senate now is the Armstrong second-degree amendment.

Mr. JOHNSTON. Mr. President, I have the floor. I ask unanimous consent the Armstrong amendment be now adopted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 2888) was agreed to.

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

Mr. KENNEDY. 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 Louisiana has the floor.

Mr. JOHNSTON. The question is now on the Lieberman amendment as amended?

The PRESIDING OFFICER. Under the unanimous consent previously agreed to, the language which was the original Lieberman amendment has been stricken, so the Lieberman amendment is not now pending before the Senate.

Mr. JOHNSTON. Mr. President, in that case it will not then be necessary for me to discuss this matter at this time. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as I understand it, the previous unanimous-consent agreement said that once the Lieberman amendment was disposed of, then Senator HUMPHREY would be recognized. Is that still the rule?

The PRESIDING OFFICER. That is correct.

The Senator from New Hampshire.

AMENDMENT NO. 2889

Mr. HUMPHREY. 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 New Hampshire [Mr. HUMPHREY] proposes an amendment numbered 2889.

Mr. HUMPHREY. 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:

SAVINGS AND LOAN FRAUD

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings and Loan Corruption Act of 1990."

SEC. 2. FINDINGS.

(a) CONGRESS FINDS.—

(1) that the savings and loan debacle is the largest financial crisis in our Nation's history, and that the cost to the American taxpayer of that debacle may be in excess of one trillion dollars;

(2) that fraud and other criminal activity—including criminal activity by federal officials and officeholders—may have contributed significantly to the saving and loan industry's losses and will cost taxpayers billions of dollars;

(3) that Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of the savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(4) that at least some of those fraudulent officers and managers attempted to perpetuate their fraudulent activities through the application of political influence on the appropriate regulatory authorities;

(5) that officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(6) that investigating and prosecuting criminal activity related to the savings and loan crisis—including unlawful efforts to exert political influence on regulatory authorities—will help send an important message of "never again" to those involved in the financial industry; and

(7) that the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed.

(b) PURPOSE.—It is therefore the purpose of this Act to make increased resources available to the investigation and prosecution of persons who use their political offices to stymie the effective regulation of troubled financial institutions.

SEC. 3. ENFORCEMENT.

(a) Subsection (b) of section 591 of title 28, United States Code, is amended as follows:

(1) by striking the word "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by inserting at the end thereof the following new paragraph:

"(9) any member of the Senate or the House of Representatives or any former member of the Senate or House of Representatives.".

(b) Section 592 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Not later than sixty days after the enactment of this Act, the Attorney General shall make an application pursuant to subsection (c) of this section for the appointment of an independent counsel to investigate any violation of Federal criminal law (other than a violation classified as a class B or C misdemeanor or an infraction) in connection with any federally insured financial institution to which Public Law 101-73 and amendments made by Public Law 101-73 apply by any person described in subsection (b) of section 591 of this title if the

Attorney General finds that there are reasonable grounds to believe that such violations have been committed by such persons.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2890 TO AMENDMENT NO. 2889

Mr. BOND. 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 Missouri [Mr. BOND], for himself, Mr. DODD, and Mr. GRAHAM, proposes an amendment numbered 2890 to amendment No. 2889.

Mr. BOND. 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:

Mr. Bond (for himself and Mr. Dodd) propose the following amendment to the amendment proposed by Mr. Humphrey:

TITLE I

SECTION 1. ESTABLISHMENT.

There is established the National Commission on the Savings and Loan Industry.

SEC. 2. DUTIES OF THE COMMISSION.

The Commission shall—

(1) examine and identify the origin and causes of the problems in the savings and loan industry that led to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including, among other things, consideration of the role of—

(A) State and Federal regulation of savings and loan associations, including capital and accounting standards;

(B) supervision of, and supervisory resources allocated to, savings and loan assocations by, or under the authority of, State and Federal governments;

(C) State and Federal statutes concerning savings and loan associations, including asset powers legislation;

(D) macroeconomic changes and regional recessions;

(E) competitive fa"dors;

(F) unprecedented fraud and abuse by persons in or connected with savings and loan associations;

(G) deposit insurance, including changes in the amount insured and in technology; and

(2) recommend, on the basis of such examination, further legislative, regulatory, supervisory, and other administrative changes that will—

(A) prevent the recurrence of the problems identified in the savings and loan industry; and

(B) improve the safety and soundness of depository associations, the Federal deposit insurance funds, and other Federal insurance programs.

SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed as follows:

(1) 2 individuals appointed by the President.

(2) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) ELIGIBILITY.—No member, officer, or employee of the executive, legislative, or judicial branch of the Federal Government or of any State or local government may be a member of the Commission.

(c) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROHIBITION ON COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) QUORUM.—Five members of the Commission shall constitute a quorum but 3 members may hold hearings.

(f) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the Commission from among its members.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or of 5 members of the Commission.

SEC. 4. POWERS OF COMMISSION; HEARINGS AND SESSIONS.

(a) IN GENERAL.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) WITNESSES; ADMINISTRATION OF OATHS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission may call witnesses and administer oaths or affirmations to witnesses appearing before the Commission.

(2) COORDINATION OF CERTAIN TESTIMONY AND EVIDENCE.—(A) In any case where the Commission intends to receive evidence or call a witness to provide testimony concerning a specific savings and loan association or the role of any person in connection therewith, the Commission shall, in writing not less than 21 days prior to the taking of such testimony or receiving such evidence, provide the Attorney General, the Director of the Office of Thrift Supervision, and the head of the Resolution Trust Corporation with—

(i) the name of the savings and loan association involved;

(ii) the date and location of the testimony or the receipt of evidence; and

(iii) as appropriate, the name of the witness and a specific identification of the subject matter about which such witness is to testify or provide evidence, or the specific nature of the evidence to be received.

(B) The Commissioner shall not take any such testimony or receive any such evidence to the extent the Attorney General, the Director of the Office of Thrift Supervision, or the head of the Resolution Trust Corporation certifies to the Commission that taking such testimony or receiving such evidence would impair, impede, or compromise the investigation, prosecution, or adjudication of a criminal, civil, or administrative matter or proceeding.

(c) INTERIM REPORT.—Not later than 60 days after the date of enactment of this Act, the Commission may submit a report to the Congress concerning the ability of the Commission to obtain information and evidence necessary to carry out its duties under section 2 and including such recommendations concerning additional authority as the Commission deems appropriate.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(f) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take pursuant to this section.

SEC. 5. STAFF OF COMMISSION: EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribe by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

SEC. 6. REPORT.

(a) REPORT REQUIRED.—The Commission shall submit a final report to the President and the Congress not later than 6 months after the appointment of the chairperson pursuant to section 3(f).

(b) CONTENTS.—The final report shall, consistent with the duties of the Commission set forth in section 2 of this Act, contain a detailed statement of the findings, conclusions, and recommendations of the Commission.

SEC. 7. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by section 6(a) of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this Act.

TITLE II—RESTRUCTURING THE FEDERAL PROSECUTION OF BANK CRIMES

SEC. 201. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel for the Financial Institutions Fraud Unit (referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET PROVISION.—The provisions of this section shall expire no later than 5 years after the date of enactment. The Attorney General may reassign the special counsel of the Financial Institutions Fraud Unit and the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.

SEC. 202. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall be responsible for—

(1) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(2) ensuring that Federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized by law to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 203. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such number of personnel as the Attorney General deems appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 204. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial service industry and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide, if the Attorney General determines appropriate, for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant savings and loan and bank fraud cases and in focusing investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Federal Bureau of Investigation;

(C) the Department of the Treasury;

(D) the Office of Thrift Supervision;

(E) the Resolution Trust Corporation;

(F) the Federal Deposit Insurance Corporation;

(G) the Comptroller of the Currency;

(H) the Board of Governors of the Federal Reserve System;

(I) the National Credit Union Administration; and

(J) the Attorney General's Advisory Committee of the United States Attorneys.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 205. REPORTS.

(a) IN GENERAL.—(1) The Financial Institution Fraud Unit shall compile and collect data concerning—

(A) the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and number of such matters closed, settled, or litigated to conclusion; and

(C) the results achieved, including fines and penalties levied, prison sentences imposed, and damages recovered, in such matters.

(2) Prior to the conclusion of an investigation or prosecution, data may be compiled in an aggregate statistical form.

(3) The Financial Institutions Fraud Unit shall analyze and report semiannually to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives on the data described in paragraph (1) and its own coordination activities with the agencies named in section 204(c), and shall provide such data, as appropriate to such committees.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) be categorized as to various types of financial institutions;

(2) disclose data for each Federal judicial district; and

(3) identify, with respect to the activities of the Financial Institutions Fraud Unit—

(A) the number of institutions in which evidence of significant fraud or insider abuse has been detected;

(B) the Federal administrative enforcement actions brought against offenders;

(3) any settlements or judgments obtained against offenders;

(4) the indictments, guilty pleas, or verdicts obtained against offenders; and

(5) the resources allocated in pursuit of such settlements, indictments, or verdicts.

SEC. 206. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

(2) adding at the end thereof the following new subsection:

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending criminal matters, investigations, cases, and defendants involving financial institutions which shall specify the number of such cases relating to insured depository institutions and shall be made available to the Congress not less than monthly during each year.".

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. HUMPHREY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Hampshire will state it.

Mr. HUMPHREY. Under the rules, does not the Chair recognize the first Member seeking recognition?

The PRESIDING OFFICER. The Senator from Missouri sought recognition for purposes of offering a second-degree amendment.

Mr. HUMPHREY. Does the Senator not lose the right to the floor after seeking the unanimous-consent agreement?

The PRESIDING OFFICER. Would the Senator repeat?

Mr. HUMPHREY. Parliamentary inquiry. Does the Senator not lose the floor after seeking a unanimous-consent agreement?

The PRESIDING OFFICER. That is correct. It was under that basis that the Senator from Missouri was recognized.

Mr. HUMPHREY. Then the Chair ruled on the consent agreement, at which point any Senator might seek recognition?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. The Senator from New Hampshire was the first to seek recognition.

The PRESIDING OFFICER. The Chair recognized the Senator from Missouri.

Mr. HUMPHREY. Parliamentary inquiry. Is it the Chair's opinion the Senator from Missouri spoke first?

The PRESIDING OFFICER. The Chair first recognized the Senator from Missouri.

Mr. HUMPHREY. That was not quite my question, Mr. President. Is it not the rule to recognize the first Senator seeking recognition?

The PRESIDING OFFICER. The first Senator that the Chair observed and therefore recognized was the Senator from Missouri.

The Senator from Missouri.

Mr. BOND. Mr. President, the amendment I have sent to the desk on behalf of myself and the Senator from Connecticut [Mr. DODD] goes beyond the amendment which was offered by my good friend, the distinguished Senator from New Hampshire [Mr. HUM-

PHREY]. His amendment provided essentially for a special counsel for savings and loan investigation. The amendment that I have sent to the desk and which is now being considered as a second-degree amendment establishes a Financial Institutions Crime Unit and an Office of Special Counsel for Financial Institutions Crime in the Department of Justice. It then goes on to set forth the activities of the special counsel. It sets forth the need for a financial institution and fraud task force, provide for the assignment of personnel, senior interagency group, and provides additional reporting requirements for that unit in addition to the inforcement activities it includes.

In addition, Mr. President, the amendment establishes a savings and loan commission. This is a provision that follows a bill that was introduced by myself and Senator DODD with the sponsorship of Mr. ROBB, Mr. BRYAN, Mr. EXON, Mr. LOTT, Mr. LIEBERMAN, Mrs. KASSEBAUM, Mr. DANFORTH, Mr. STEVENS, Mr. KOHL, Mr. MCCONNELL, Mr. PRESSLER, Mr. RIEGLE, Mr. BIDEN, Mr. BURNS, Mr. MCCAIN, Mr. SHELBY, Mr. SIMON, Mr. D'AMATO, Mr. DURENBERGER, Mr. ADAMS, Mr. BRADLEY, Mr. DECONCINI, and Mr. KERRY.

This measure has been negotiated with the administration. They have given us a letter, both from the Department of Justice and the Department of Treasury, saying that they agree to the approach taken under this savings and loan commission.

While we are pleased that the Government is prosecuting guilty S&L executives and persons who were active with or connected with the savings and loan fiasco, we should not be blinded from seeing the full picture of just how this fiasco took place. Above all, we need to understand that mistaken policy decisions that have left us facing the largest financial scandal ever to beset the Nation must not be repeated again.

Many here in the Senate have expressed this belief in the past, that a special prosecutor should be assigned to delve into the criminal conduct of S&L executives, as well as the complicity of governmental officials, whether they be in the legislative or the executive branch, or whether they be in the professions, which are also culpable, perhaps in significant number.

We have noted in the past that many questions have been raised about the mistakes in policy, and I think it is imperative that we investigate those policies, those practices as well. If we were to rely solely on prosecutions to punish those at fault, we would fail to understand the more critical role of the interplay of events such as the increase in deposit insurance, the grant of new powers, the reduction in the amount of capital required to operate an S&L, and the failure to increase the number of regulators when there have been exponential increases in risk.

If we fail to understand the events that led to this crisis, I fear, Mr. President, we are destined to repeat it. In order to be serious about the pledge "never again," we must do more than prosecute lawbreakers. We must go beyond the Department of Justice prosecutions to a full investigation of the policy decisions that produced the scandal and which could threaten other financial insurance programs as well. To get such an accounting we believe we need to establish an independent commission to review all the facts and to report to the American people on the basis question: How did this happen?

For this commission to be effective, we believe it should be bipartisan with members recommended by both political parties and the Congress, as well as the executive branch. But, neither any current Member of Congress nor any current administration official should be a member. The commission should make a final report to Congress early next year.

Clearly, there is plenty of blame to go around and there are more than enough people prepared to assign the blame. Others argue that we should cease pointing fingers and instead focus on cleaning up the mess. We agree. That needs to be done. But we also believe the American people and the Congress need to have a full reckoning of the scandal.

The people need to have it because it is part of the governing contract we make with the people that we will not only take credit for things when they go properly, but we will let them know what happened when things go wrong.

For Congress, we need to know just what went wrong so we will not repeat the same mistakes when we consider legislation to reform deposit insurance and modernize our financial services industries.

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

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senator from Missouri has offered an amendment which utterly negates the amendment offered by the Senator from New Hampshire. This is a killer amendment, so to speak, in that it kills the effect of the Humphrey amendment.

The underlying Humphrey amendment is an amendment to the independent counsel law, the Ethics in Government Act, which would facilitate the appointment of a special counsel, that is to say, of an independent counsel, where the Attorney General feels there is evidence implicating a Member of Congress in connection with unlawful activity with respect to the savings and loan scandal.

There has been a lot of rhetoric in this body and in the other body about the need to get to the bottom of the S&L mess and to establish whether or not there is any criminal culpability on the part of Members.

The purpose of the Humphrey amendment was to facilitate the appointment of the Attorney General of an independent counsel to get to the bottom of that very question: Whether or not there is criminal culpability on the part of any Member of Congress. That is a good, strong law-and-order amendment, a good no-nonsense amendment to get directly to the bottom of the question whether or not Members of Congress were or are criminally culpable.

The Bond amendment utterly negates the Humphrey amendment. The Bond amendment is in lieu of the Humphrey amendment. It strikes all of the Humphrey language. And, what does the Bond amendment do? It is an interesting contrast, Mr. President.

The Humphrey amendment sought to facilitate the appointment of an independent counsel with respect to the conduct of Members of Congress. The Bond amendment sets up yet another Government commission. It makes no mention, it makes no effort, unlike the Humphrey amendment, to facilitate the appointment of an independent counsel. Instead, it wipes out the Humphrey language and calls for the appointment of yet another governmental commission, an eight-member governmental commission.

I cannot help myself, but when I look at the scope and the magnitude of the S&L scandal and hear someone call for the appointment of a commission in place of the Humphrey amendment, I cannot help but say, "big deal."

The Bond amendment, as well, calls for the establishment of another unit at the Department of Justice. I have no particular objection to that. I have not studied it in detail. No one has. This is a brand new matter for everyone on the floor, with the exception of those who worked it up in the last few hours. But it is preposterous, Mr. President, to propose substituting a commission which does not even have any directive, to look into the role of Members of Congress, just yet another amorphous commission out there amongst all those thousands of commissions that churn out paper and little else.

This clearly is a dodge, it is a subterfuge to extend further the efforts by Congress to keep the public from finding out whether or not there is any

criminal culpability here in connection with the savings and loan scandal.

It is a pale substitute. We cannot even call it pale. It is really a dodge. It is a subterfuge. I hope Senators will oppose it. Naturally, I had expected this very sort of thing. I did not think that the leadership on the Democratic side would be agreeable to letting the Humphrey amendment stand on the merits. I expected a second-degree amendment. It fits the pattern that has been adhered to in this body over the last 48 hours or longer. But certainly, the Senator is within his rights. There is no question about that.

I urge Senators to oppose the Bond amendment, to defeat the Bond amendment so that we might get to a vote on a matter, on a proposal that has the potential of getting to the bottom of that important question the American people want to know. This savings and loan bailout is going to cost upwards of $400 billion, probably much more, depending upon the course of the economy over the next year or 2 or 3, depending upon how much more real estate values decline in this recession through which we are going. It is costing a lot of money. It is probably going to cost a lot more. The American people are asking why? They are asking who?

Some have suggested that the Members of Congress might have some criminal culpability. The American people have a right to see to it, have a right to expect that we will see to it that there is an early, independent, objective investigation wherever the Attorney General, in his opinion, feels that there is evidence to warrant the appointment of an independent counsel.

The Humphrey amendment would have facilitated the appointment of an independent counsel or, I should say, would have facilitated the seeking of an independent counsel by the Attorney General. It would have facilitated his asking a special court to appoint an independent counsel.

But, if the Bond amendment is agreed to, and the Humphrey amendment is wiped out, we are left with what? Another commission. It is almost laughable. If the dollar amounts were not so great, it would be laughable.

I know constituents will take very little consolation from the substitution of an eight-member commission for the proposal to facilitate the appointment of an independent counsel.

I urge my colleagues to oppose the Bond amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, may I ask the Senator from New Hampshire a question about his amendment? I genuinely am confused as to what deficiency he sees in the Justice Department now which would require the appointment of a special or an independent counsel to prosecute anybody.

As I understand it, we have appropriated substantially increased amounts of money for prosecutions of this type, for the Attorney General and the Justice Department to proceed to carry out his duty under the law and prosecute if he feels there is a criminal case.

Mr. HUMPHREY. First of all, as Members know, the Attorney General may bring a case against any citizen, including Members of Congress, as for example the Attorney General's Office did against those implicated in the ABSCAM scandal. Or the Attorney General may, under the Ethics in Government Act, seek the appointment of an independent counsel if he prefers to do it that way. However, he may seek the appointment of an independent counsel only if there exists a conflict of interest between the Attorney General's Office, that is to say the Justice Department, and that Member of Congress.

The Humphrey amendment removes that requirement so that the Attorney General might request, if he thought there was a case to do so, the appointment of an independent counsel without there, first, having to be a conflict of interest between the Justice Department and that Member of Congress. It removes an impediment. It would facilitate, as I have said a number of times, the appointment of an independent counsel if the Attorney General, who would continue to have complete discretion, felt there was a case for seeking such an appointment.

Mr. BINGAMAN. Mr. President, let me ask the Senator from New Hampshire further, as I understand it, though, the whole idea of appointing an independent counsel is to eliminate any perception that the Attorney General might not be able, by virtue of conflict of interest or whatever, to adequately carry out his responsibilities under the law.

The point I am trying to make, is there a basis that the Senator is citing as to why he cannot carry out his responsibilities under the law and go ahead and prosecute people who he believes have violated the law? That is what I had expected the Attorney General to do in the savings and loan matter, to commence prosecutions and proceed to prosecute everybody against whom he could make a criminal case.

I just do not understand why we would be passing a law saying that instead of doing that, he is authorized to hire independent counsel to carry out those duties. I do not see where the conflict of interest lies that would prevent the Attorney General from going ahead and enforcing the law as he is sworn to do under the Constitution.

Mr. HUMPHREY. I am not sure I see the Senator's point.

Mr. BINGAMAN. My point is that the Attorney General has the job of prosecuting people who are engaged in criminal activity. As far as I can tell, he has not only that responsibility, he has full authority to do that under existing law, and presumably he has been given all the resources to carry out that responsibility.

I remember an amendment to add another $50 million to the appropriations so that he had plenty of resources with which to do it. I do not understand, in light of that situation, why we are now coming along and saying, instead of doing what we intended, which is to enforce the law as the statutes contemplate, he should appoint an independent counsel to do the job, which is what I understand the Senator's amendment would provide.

Mr. HUMPHREY. The amendment does not require the Attorney General to do anything. But if he felt there were a case for seeking the appointment of an independent counsel, he could do so, first, without establishing some sort of conflict of interest between his Department and a Member of Congress. That is the point of the amendment.

So the Senator now has, in addressing the S&L matter and the unresolved questions in the minds of the American people, a choice between the eight-man commission which the Senator from Missouri proposes in lieu of a proposal by the Senator from New Hampshire that would have made it a little easier for the Attorney General to secure the appointment of an independent counsel. That is the choice that faces Senators. It ought to be a pretty clear choice if they are serious about getting to the bottom of the questions raised by the American people.

Mr. BINGAMAN. Mr. President, let me just ask the Senator if he would not agree with me, though, there are really three choices before the Senate: One is to go forward and have the Attorney General use his existing authority and carry out his existing responsibility and prosecute any crimes that he investigates and discovers, which is the existing law. That is one option. A second option would be the proposal that the Senator from New Hampshire has put forward, which would be that instead of doing that he could appoint an independent counsel. And then a third option would be the commission that the Senator from Missouri has recommended. I assume the commission of the Senator from Missouri in no way takes the place of prosecution by the Attorney General.

So it is really not a question of who you want a commission to investigate or an independent counsel to prosecute. I think the question is, do you want the Attorney General to do the prosecuting, as he has been directed to do under the statutes now on the books and perhaps have a commission also investigate in addition to that, or do you want to have the Attorney General sidestep that and be in a position to appoint independent counsel to carry out that responsibility?

Mr. HUMPHREY. Will the Senator yield for a response.

Mr. BINGAMAN. Yes.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Clearly, as I have stated, the Attorney General and the Justice Department have power to investigate and to prosecute wherever the evidence would seem to warrant with respect to anyone, including Members of Congress. But the fact is such investigation and prosecution of Members of Congress can sometimes take on the appearance at least of a conflict of interest—political retaliation, if you will. That is why we gave the Attorney General the alternative of seeking the appointment of an independent counsel as an alternative to the Justice Department itself investigating and prosecuting a Member of Congress. We gave the Attorney General and the Justice Department that option. But in order to exercise that second option, the Justice Department first has to conclude that there is a conflict of interest between the Department and the Member of Congress. The Humphrey amendment would simply eliminate that last requirement, that there be a conflict of interest between the Justice Department and the Member of Congress before the Attorney General may access that other option; namely, the seeking of the appointment of an independent counsel.

I have absolutely no faith at all that Senator BOND'S eight-member commission is going to be able to help the Attorney General in any material way, within any reasonable timeframe accomplish what the American people want and the Humphrey amendment seeks, that is, to get to possible criminal culpability on the part of Members of Congress in connection with the savings and loan scandal.

The Bond proposal in another context might be OK; if you can stand one more commission and one more commission wasting time and money, it might be OK. But as a substitute for the Humphrey amendment, it is hardly worth discussing. It is clearly an effort to sidestep what the Humphrey amendment seeks to do. If Senators want to sidestep what the Humphrey amendment seeks to do, want to sidestep the proposal to make it a little bit easier for the Attorney General to seek the appointment of an independent counsel, then obviously they will want to vote for the Bond amendment.

I hope Senators are not going to buy that argument. It is not even worth calling a substitute. It is simply a dodge.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all I want to commend my colleague from Missouri for offering this amendment. I am delighted to be a cosponsor with him of it. This is an amendment, for historical purposes, Mr. President, which actually was raised prior to the August break. It enjoys the support of the administration, I believe both the majority and minority, who have examined the question even then, but because of time constraints we were not able to move forward on it. In fact, I am told, and I have asked my colleague from Missouri, my understanding is that the Justice Department strongly supports the Bond-Dodd amendment, as I understand it. Is that correct?

Mr. BOND. Mr. President, that is correct. We have support from both the Departments of the Treasury and Justice.

Mr. DODD. I thank my colleague for that.

Let me make the case that this is serious business that we are dealing with here. I understand that in the midst of all of this there is always some attempt of one-upmanship here a bit. But I must say with all due respect to our colleague from New Hampshire that he may not find any necessity or merit for the Bond amendment, but if that is the case it is even more the case in the case of the Humphrey amendment. There it is purely a gratuitous effort because, as has been pointed out by the Senator from New Mexico and others, there is nothing whatsoever that restricts the Department of Justice from investigating any Member of Congress. That has happened in the past. It can happen today. It can happen tomorrow. It is not required that there be any legislative effort here.

The only reason that we had to initiate legislation some time ago to establish an independent counsel was in dealing with situations where there was an investigation or should be an investigation, of wrongdoing or alleged wrongdoing at the executive branch level and to have an executive branch agency investigated other than individuals within the executive branch raised conflict of interest questions. So the establishment of an independent counsel, laws that would allow for that investigation of an independent counsel to go forward, were necessary.

But that was never intended to apply where conflicts of interest did not exist. There are no conflicts of interest between the Justice Department and the Congress when it comes to the question of investigations.

So it is absolutely gratuitous to establish, if you will, an independent counsel to investigate Members of Congress. The Justice Department has that authority. It has that power. It has exercised it in the past. It does not need the permission of Congress to do it.

In fact, in dealing with this situation, the specific situation of the S&L issue, we adopted as part of the S&L kingpin legislation back in the Wirth-Heinz amendment, we established title II of that particular bill, titled "Restructuring Federal Prosecution of Bank Crimes."

We did feel in that particular case that we would like to see setting up of a unit within the Justice Department to proceed to investigate alleged crimes that occurred within the financial institutions, in the Department of Justice, a financial institutions fraud unit, to be headed by a special counsel of the financial institutions fraud unit, referred to a special counsel.

We have taken title II of that and made it title II of this amendment. Just to make it clear to our colleagues that we are not in any way trying to undermine the establishment of that unit for going after financial crimes, but the necessity to set up an independent counsel to examine or investigate Members of Congress does not add a single thing to what already exists under law, what exists by statute, what has been the case for years, Mr. President.

So the notion somehow that we have to have an independent counsel here is purely gratuitous.

What Senator BOND and I are offering is something that does not presently exist. While we want to go after the wrongdoers, incarcerate those responsible, see the maximum amount of penalties are leveled against those who have defrauded the American people and have caused this incredible drain of resources, we also felt it was necessary in the midst of all of that to take a good hard look at policy questions going back to the last part of the last decade through the 1980's, what policy decisions were made by the Congress, by the executive branch, by the respective agencies that allowed for some of these problems to exist, and to do that properly we felt rather than having 20 different committees in Congress, maybe an executive branch commission or someone else going off doing something, to establish a bipartisan commission that would allow for the minority or the majority leaders of both Chambers, the President to appoint an experienced panel of

people to examine the policy questions.

Certainly the American public has a right to know as we look at these issues what happened, why did it happen, and to minimize the possibility of it occurring again.

So our amendment really does do something new that does not exist.

There is a strong sense, I think, among all of us here, that we ought to include that as a part of this examination effort, to give an accounting, a good policy accounting rather than sort of depending upon an ad hoc basis as how things emerged. This ought to provide us with a clear, concise examination of those questions and then present that report, in a timely fashion by the way, within the next 6 months, so we do not have a 2-, 3-, or 4-year effort ongoing here before we know the final results.

Mr. President, our amendment really is designed to do nothing more than that. It is appropriate in my view that it be placed here because it gives us an opportunity to really address the questions that have not been thoroughly examined.

Certainly the public deserves to know those who have ripped off the Government are going to pay for their crimes. That is going to be done, we hope.

The Wirth-Heinz amendment, as I said a moment ago, to the omnibus crime bill, so-called S&L kingpin legislation, will assure that such people go to jail. However, Senator BOND and I and others feel we should do more than that. That is what this amendment is designed to do. It would assure the public that not only we will go after the crooks but that we will get a full story.

We cannot allow the hunt for crooks and political cover to blind us from seeing the full picture of just how this fiasco occurred. In order to get the full story, the amendment that Senator BOND and I are offering would establish an eight-member blue-ribbon commission to investigate and identify the causes of the savings and loan disaster.

Among other areas, the commission is directed to read the amendment, consider the role of one, State and Federal regulations, of savings and loan institutions, including capital and accounting standards, State and Federal supervision, including the number and quality of personnel, State and Federal statutes concerning savings and loan institutions including asset powers legislation, macroeconomic changes, regional recessions, competitive factors, unprecedented fraud and abuse in the savings and loan industry, and the amount of the deposit insurance protection and the technology that permits the bundling of huge sums of money in $100,000 chunks that were then broken around the country to the highest bidder.

We believe an investigation of these factors will assist us in getting to the bottom of how this disaster occurred in addition to going after the culprits. But if we only go after the culprits and do not examine the policy questions in a thoughtful way, we may enjoy some sort of satisfaction of watching a hanging, but we would not have learned any lessons that allow for those people to do what they did in the first place. This commission is designed to bring that together in a concise fashion and give us an opportunity to learn those lessons.

Senator BOND and I also have one substantial change in the bill before us today from S. 2903, the bill we introduced several weeks ago. The bill before us removes the subpoena authority from the original bill and replaces it with an interim report from the commission concerning its ability to obtain the information and the evidence it needs to carry out its duties.

We have done this in response to the Justice Department's concern that a congressional investigation of individuals—clearly you will have to look at individuals who might be targets of civil or criminal investigations—could reduce their ability to bring S&L crooks to justice. We want to be sensitive about that so we do not end up inadvertently complicating the role of the Justice Department as it goes after the culprits who have committed the crimes. We do not, as I said, want to do that.

Moreover, since the commission's focus is on the policy decisions that caused this problem, most of the information it needs is contained in public documents such as laws, regulations, debates, hearings and the like.

Should the commission find it needs other information, then it will let us know, and I am sure we will be able to craft a solution that permits the commission to get the information that it needs for its work without interfering with the Justice Department's job.

Mr. President, our commission has a forward looking element, as well. It would be required to recommend changes in regulations and supervision of depository institutions to prevent a recurrence of the problems that caused the S&L mess, and to recommend any other administrative or legislative action necessary to protect the safety and soundness of depository institutions in the Federal insurance funds.

Mr. President, while I believe that the FIRREA legislation passed by this Congress in 1989 addresses many of these problems, cleaning up the S&L mess is not the last job here. We are also concerned about the future of our banking industry. Banks have come under increasing pressures from other financial services providers, both domestically and internationally.

The Banking Committees in both the Senate and the House have been considering modernization legislation for the past decade, but have failed to develop a consensus on a solution, despite, I might add, the concerted efforts on the part of the chairman of the Banking Committee in the Senate, and I know Members of the House, both under Senator GARN, Senator Proxmire, and now Senator RIEGLE, who have tried to develop some sort of consensus or solution to that problem. They have not done it yet.

The lessons of the S&L fiasco could be highly instructive as we consider the best way to modernize our financial services industries. With the final commission report in hand by February 3, 1991—I would emphasize that that is about 16 or 18 weeks from now—we feel we will be far better equipped to approach this problem than we would be in the absence of that report.

Mr. President, this issue has been so politicized. You have national political parties taking out full-page ads trying to gain the high ground politically: Who is at fault; this Congressman; that Congressman; was it the Congress; was it the President; was it the agencies?

We can spend, if you want, the next 6 or 8 months seeing who wins the finger-pointing game. The problem is, the American public loses in that kind of contest. Some Members may lose; some may win election, reelection. But we will be no better off at end of that process than we are today in the absence of trying to get to the bottom of the policy questions.

So rather than have this thing be done in a political fashion solely, and to try to bring together the brightest people in the country, appointed by the leaders of this body, both the minority and the majority, as well as in the other body, along with the President of the United States, so that we can have the sharpest minds examine the policy questions, and try to at least give us some sense of how this occurred and where we ought to go from here, makes sense; it makes sense.

To set up an independent counsel within the Department of Justice is totally unnecessary, totally unnecessary. The Justice Department opposes, as I understand it from the reports I have, what the Senator from New Hampshire is proposing here. It is not only irrelevant, in my view, but does a disservice, does a disservice.

What Senator BOND proposed does a service. It is not going to be a fireworks display. It may not get the headlines every day, because they are examining reports and political debates, if you will, strategies, regulations, and other such matters.

But, nonetheless, I happen to believe, as a member of the Banking

Committee, as a Member of this body, it would be invaluable to us as an institution and to the American public for that kind of information, as we consider what must be done to guarantee that not only we catch those responsible, but maybe as important, that it does not happen again, and that we minimize the cost we are presently being asked to pay as a result of that fiasco.

I commend the Senator from Missouri for his amendment. I am delighted to be a sponsor of it. We believe it is worthwhile, and we hope our colleagues will adopt it so we can move on to the business of trying to deal with this problem in the manner in which it ought to be dealt with.

I yield the floor.

Mr. BOND. Mr. President, I thank my distinguished colleague from Connecticut. He has stated very well the purposes of this commission. He has labored long and hard on dealing with this S&L problem.

We have heard many hours, it seems, perhaps weeks and months of testimony in the Banking Committee. We realize that the people of America have a right to know, as my good friend from New Hampshire has said. He said, "They have a right to ask why; they have a right to ask who." The American people want to know. And I think this is precisely what our commission addresses.

In the hearings, we have gone through many of the problems that led to the failures of savings and loans, and there have been a wide range of estimates. The Attorney General, I think, said 30 percent of the institutions may have had significant fraud. One bank consultant, who has been very accurate in his predictions, said that perhaps only 5 percent have been the result of fraud.

Nevertheless, I was one of the first, and I was joined by my colleague from Connecticut and other members of the Banking Committee, who said if anybody violated the law, stole from institutions which were backed up by FSLIC, which is ultimately backed up by the taxpayers, they, No. 1, should be prosecuted to the fullest extent of the law; and, No. 2, every effort should be made to go back and recapture the profits of the ill-gotten gains they have taken away. The people of America demand absolutely no less.

That is why we put our money where our mouth is and put significant appropriations into the Department of Justice, to get after these people who have stolen from the system. We have had reports that they are pursuing these wrongdoers.

A year ago, I wrote to the Attorney General and said he ought to set up a special unit. This year, he has set it up, and as my colleague from Connecticut has pointed out, in title II of the measure, the financial crimes kingpins bill that we passed, originally drafted by Senator WIRTH and Senator HEINZ, there is established in law a financial institutions crime unit that will be responsible. We have that in place. We intend to give it every single dollar it needs.

The people deserve to know that there is an unfailing zeal in prosecuting the wrongdoers. Some of them have already been prosecuted, and some of them have received sentences up to 30 years. Others have been required to return $10 million. But unfortunately, those are a very small percentage of the losses.

Prosecutions are going to take several years. There is no reason that they should slow down. As has been pointed out by my colleague from New Mexico, the Attorney General has full power, if he finds there is culpability of any Member of Congress, to go after that Member of Congress, either criminally or civilly. And, as a matter of fact, this financial institutions crime unit, which will be headed by a special counsel, would be perfectly suited to do that.

It is for this reason that we have been advised, both by the Department of Justice and the Treasury, that they oppose the independent prosecutor which was contained in the original amendment, and they support the financial institutions crime unit.

I am advised that letters from the Treasury and the Department of Justice are on the way over. I do not know if they will arrive prior to the vote, but I can assure you that from personal conversations, the representatives of both Justice and Treasury say they favor this second-degree amendment, this approach outlined by my colleague from Connecticut.

Mr. HUMPHREY. Will the Senator yield to me?

Mr. BOND. Yes, without losing my right to the floor.

Mr. HUMPHREY. What official in the Justice Department officially endorsed this?

Mr. BOND. I have been advised by Larry Harlow from the Department of Treasury and Bruce Cavarro from the Department of Justice.

Mr. HUMPHREY. They oppose the Humphrey amendment?

Mr. BOND. Yes.

Mr. HUMPHREY. I thank the Senator.

Mr. BOND. Mr. President, as I was pointing out, we have a measure before us which has had substantial work in this body. We have learned that there are crimes that must be prosecuted, and we have given the Department of Justice the power and the resources to go after those who have committed criminal wrongdoing. But, unfortunately, that does not tell the whole story. As the story has emerged from testimony in the Banking Committee, there have been State and Federal regulatory shortcomings.

There have been inadequate examinations. There have been incentives, built in by the deposit insurance system, which have led to a moral hazard that we have recognized. There have been powers given to savings and loans by State legislatures as well as by the Congress that have contributed. There have been changes in the economy and the condition of savings and loans prior to the removal of the regulation that limited the amount of interest paid. They had a ready-made situation where they could make a profit by taking in deposits and lending out at reasonable amounts. Those lids were lifted and inflation hit. There were substantial economic changes that happened.

Most of all, as we look at the very important policy decisions facing us in reviewing and revising the deposit insurance system for banks and savings and loans, we must know how to avoid the moral hazard of setting up deposit insurance, which is vitally important to protect the savings of the small depositor, how we avoid the danger of letting those who run institutions with federally insured deposits from putting the risk on the back of the fund and ultimately the taxpayer.

This is a critically important question and, having studied it, having debated it in the committee, having worked with my colleagues who serve on the Banking Committee, we are vitally concerned that, first, the American people who have a right to know take place. The Senator from New Hampshire pointed out that we in Congress have objective evaluation of all the information we have gathered. We need to tell the American people, yes, there has been fraud, and we are going after it, but do not think that you can go back and erase all the problems of savings and loans or avoid a similar debacle in the future just by criminal laws. That is why this is a two-part provision, and that is why the amendment presented by Senator DODD and myself is so important.

Mr. President, I ask unanimous consent that Senators KERREY and CONRAD be added as cosponsors to the amendment.

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

The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I wonder if I might address a question or two to the Senator from Missouri.

Mr. BOND. I will be happy to respond.

Mr. HUMPHREY. Putting aside the merits, or the demerits, if you will, of the Senator's proposal, I do not see why the two are mutually exclusive; that is, the Humphrey approach and the Bond approach. I do not see that

one must necessarily exclude the other.

Does the Senator have an objection to changing his amendment to include essentially the same provisions offered by the Senator from New Hampshire? Does the Senator from Missouri have a specific objection to facilitating the appointment by the Attorney General of an independent counsel to investigate Members of Congress where the evidence so implicates them?

Mr. BOND. Mr. President, to respond to my distinguished friend from New Hampshire, I think that we ought to limit independent counsel very dramatically because I believe the Department of Justice can do the job it is directed to do without setting up an independent counsel. And I believe that it is the presence of an independent counsel which has led to the objections that we have received from both the Treasury and the Department of Justice to the proposal of my good friend from New Hampshire.

Yes, I would be strongly opposed to amending it because setting up that next independent counsel is precisely that to which they object. We have seen independent counsels go haywire. I believe in the responsibility of the Attorney General. I think that the Attorney General can and will prosecute anyone whether it be a private individual, a current or former Member of the administration or of Congress, and the Attorney General does not need a special prosecutor to do so.

Mr. HUMPHREY. Mr. President, I wonder if the Senator will entertain one further question. He raised concerns about the Office of the Special Counsel. Would he then be in favor of abolishing the special counsel provision which now exists in the Ethics in Government Act?

Mr. BOND. Mr. President, if he gave me the opportunity in a separate measure to deal with those, I would have a great deal to say about that, and I have been concerned about the activities of many of the independent counsel. But that is not what is before us today.

Mr. HUMPHREY. Yes. The Senator made the argument that the Humphrey proposal to facilitate the appointment of an independent counsel is flawed because independent counsels are dangerous. That is essentially what the Senator said. If that is the Senator's argument, would he be in favor of eliminating from the Ethics in Government Act the independent counsel provisions that are now part of that act?

Mr. BOND. I would like to have an opportunity to discuss with my colleague from New Hampshire how more responsibility can be brought into that situation, because I think there are significant reforms that might well be made. I would be most interested to hear testimony of witnesses at hearings and investigate it further. I think that undoubtedly there are improvements we can make in the system, and I am bothered by the amount of funds spent by some special prosecutors with very little direction and apparently little result in activities.

Mr. HUMPHREY. I am unable to respond directly. I think the case has been well made for an independent counsel, because where the Attorney General hears that his actions might be perceived as politically motivated, his office needs the independent counsel provisions so that where the evidence indicates accountability on the part of a Member of Congress or anyone else, he can seek the appointment of an independent counsel who can investigate and prosecute someone without any appearance of a political vendetta.

The Senator from Connecticut helped to make my case. He pointed out that the whole S&L issue has been very highly politicized. There is no question about that. He mentioned the fact that the various organizations have printed full-page ads, further politicizing these issues. It is a highly politicized issue.

This is precisely the situation, a highly politicized situation, where the independent counsel provision is disparate. If the Attorney General just moved under his ordinary statutory authority to investigate and prosecute a Member of Congress who was implicated by evidence as involved in the S&L scandal, the Attorney General's office could be charged with politically motivated investigations. For example, if this Republican administration and this Republican Attorney General moved under the ordinary statutory provisions against a Democratic Member of Congress, you can see the problem right off the bat, and that is why we have created this alternative with the Ethics in Government Act. It is to give the Attorney General's office the authority to seek the appointment of an independent counsel so that any ensuing investigation or prosecution could not be associated with any political motivation. This is precisely the kind of situation for which the ethics in government and the independent counsel provisions were enacted.

To suggest we do not need an independent counsel in this S&L situation, it seems to me, argues against the self-evident facts of life in this highly politicized city.

Let me make this point, too, that any Attorney General does not want to make trouble for himself in Congress. The Senate has to confirm the Presidential appointments to the Office of Attorney General, not only the Attorney General but I mean his principal subordinates. An Attorney General does not want his subordinates, when they are up for confirmation, to be roughed up by the Senate.

And then a greater sensitivity on the part of an Attorney General is the matter of his budget, his appropriations. Any high-level member of the executive, including the Attorney General, knows that the Congress has the perfectly legal retaliation when Congress does not like something. When Congress does not like some investigation conducted by the Attorney General, the Congress has a myriad of subtle, legal, and powerful ways to retaliate. The purse strings can be loosened or tightened. Attorneys General want to avoid that kind of retaliation.

That is another reason, and that is the very kind of conflict of interest that was anticipated when the Ethics in Government Act was enacted. To suggest that in this kind of situation you do not need that alternative of a politically unimpeachable ethical alternative is to not take into account the ugly political realities of the city and retaliation that can so easily be engaged in by the Congress on any executive who makes trouble, to put him in his place, draw the purse strings so tight that he chokes.

We need an independent counsel. We need to give power to the Attorney General in the matter of the S&L scandal and the possible violation of the law by certain Members of Congress. We need to give the Attorney General the ability to seek the appointment of an independent counsel without first having to establish a case for conflict of interest.

I had a conversation with my friend from Missouri and he advised me that this proposal—which had just plopped out on the floor out of the blue, just as my proposal plopped out on the floor out of the blue, I will admit—that work on it has been underway for some time; it is not brand new even though it just sort of appeared as a bolt from the blue.

But the timing is very interesting and the choice of the vehicle is very interesting. There may be some merit. I mean we have not had really a chance to study the proposal made by the Senator from Missouri and the Senator from Connecticut. There may be some substantial merit; maybe it is complementary. But it sure is not exclusive and, in the view of this Senator, it should not be. It is clear that the tactic here is to try to blow the Humphrey amendment out of the water by cutting it, by ripping out of its guts every last word from A to Z and replacing it with an eight-man commission.

It does not impress this Senator and I do not think it would impress very many of our constitutents who are very genuinely concerned about the savings and loan scandal and the possibility, the very real possibility, that

certain Members of Congress, maybe a few, maybe many, exercised undue political influence, perhaps even broke the law in interfering with regulatory agencies and that that at least complicated—I do not suggest it was the fundamental cause—but at least complicated and vastly compounded the cost and ultimate cleanup of this S&L scandal.

So, it is unfortunate that we cannot deal with this in a forthright way. I really do not know why we cannot. These proposals are not mutually exclusive. They might even be complementary. It would not hurt to pass them together. But the clear intent on the part of the Senator from Missouri is to knock the Humphrey amendment out of the box, out of the room and off Capitol Hill.

Well, it may well succeed tonight, but it is going to come back because the S&L scandal is not going to go away tonight or tomorrow. The cost is going to grow. The anger of the American people is going to grow. Political heads will be turned and sooner or later we will find a way of getting to the bottom of this.

Mr. President, I am not going to have my language destroyed and gutted and rendered meaningless voluntarily. I am not going to do that voluntarily. Therefore, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2889) was withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BOND. Mr. President, obviously there are many of us, the Senator from Connecticut and myself, who think that the second-degree amendment on the commission to examine the causes of the savings and loan debacle and to recommend to Congress steps to be taken to prevent future problems, as well as reporting to the American people on what went wrong, is very important.

I was not able to get the agreement to have a vote prior to the 5 o'clock cloture vote. That is why we will not pursue it at this time.

I do want to point out, however, that this matter is not going to go away. It is an extremely important measure, I believe, for the confidence of the people of America and particularly their confidence in financial institutions. Since we have had an opportunity to have an interesting discussion and different types of parliamentary maneuvers, perhaps we have called more attention to the proposition. We would welcome additional cosponsors. We look forward to an opportunity to bring this back to the Senate on an appropriate vehicle when it can be passed, sent to the House and, we hope, adopted into law.

I thank the Chair and I thank my colleagues for permitting us to discuss this very important measure.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I wish to thank my colleague from Missouri again, and associate my remarks with those he has just made.

I think it is regrettable that we were not able to get this amendment adopted. I agree this is not necessarily the appropriate vehicle. We were sort of placed in that position because of the danger of having a proposition adopted that one might construe as having done something meaningful in this regard which I think would have been a disservice. But, nonetheless, we were placed in that situation.

We hope, nevertheless, to proceed with this idea. We have done a great deal of work. As we noted earlier, the administration, despite earlier reluctance, now believes this is an appropriate way to go.

The House leadership, I am told, supports this proposition. The leadership here believes this is the proper way to go, at least in terms of dealing with these policy questions we have outlined earlier.

So, at the appropriate time, either on an appropriate vehicle or in a freestanding proposition, the Senator from Missouri and I hope to return to this matter, take a minimum amount of time, establish this commission so we could appoint the quality people that we think are more than willing to serve and give us their sound recommendations as to what occurred from a policy standpoint and how we can avoid those problems in dealing, as I mentioned in my remarks, with the commercial banking problems that plague this country today.

The Senator from Missouri has provided an invaluable service through his efforts here this afternoon. It is not a wasted amount of time to have raised this question, debated it, discussed what the commission would do, how long it would serve, what the parameters of its investigation would be, and the kind of support it enjoys.

I thank him for those efforts and express my pleasure in being able to associate myself with that particular proposal and urge, as well as he has, our colleagues to examine the proposal and join us, if they would like, as cosponsors of this effort and express the same hope that he did that in the next few days prior to adjournment here we will have the opportunity to vote on this, establish this commission before we recess this Congress.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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, my concern, and what I speak to today, is what appears to be an obsessive desire on the part of the President of the United States to implement a reduction in the capital gains tax and my hope that he breaks with that obsession so we are able to get a budget agreement that is desperately needed. I know there are some arguing that a sequester would be in the best interests of the United States and it would not be so bad to have it.

The Republicans on the House Appropriations Committee voted yesterday not to extend by 20 days the time which we will have to reach this agreement. I must observe that if the sequester comes into effect, I think Americans will see the people who work in this Government are perhaps a bit more important than we here in the Congress, even. I know that is particularly true in Nebraska where the loss of those who are inspecting food in our meat packing plants will likely cause the closure of those plants and likely cause a massive and permanent disruption of the food supply in this country with the displacement of hundreds of millions of dollars of income and jobs in my State.

They are apt to say that these people working in Government are even a bit more important than you, Senator, and as a consequence, not apt to be very pleased with this sequester.

I urge the President to drop his obsessive desire that he has to get capital gains and let the Congress itself conclude this matter in reducing the deficit.

I know our leaders have worked hard. I applaud the leadership and what they have done in the summit. I believe it is time to bring this to the Senate, debate it, decide what reductions will occur and what revenue will

be needed, so we can set this Nation on course again. It is a disaster in the making, I think, Mr. President, largely as a consequence, momentarily at least, of the excessive desire on the part of the President to reduce the tax on capital gains. I hope he breaks that obsession, and then I hope we here in the Congress do what we need to do not only to prevent the sequester, but reduce the borrowing of this Government so we can get on with the business to restore economic health to all the people in this country.

Mr. President, in summary, I wish again to express my concern for the obsessive nature of the President's desire to reduce capital gains tax and the potential dangerous consequences of this obsession.

Webster's definition of obsession is to be preoccupied by the persistence of an idea, desire or emotion that cannot be gotten rid of by reasoning. All of us have faced friends who were thus possessed. We know that obsessions can produce good results as in the case of an inventor or athlete or artist whose discipline yields amazing performance.

We also know of people whose obsessions caused them to ignore other responsibilities and work. We have seen them distort their view of the world so much that everything seems to begin and end with the object of their desire. Nothing else seems to matter and they are willing to suffer great collateral failure in order to be successful in what appears to everyone else to be a very small accomplishment.

Mr. President, I believe President Bush is thus possessed with the desire to achieve a reduction in the tax on capital gains. The budget summit which he called for in May has produced no recommendation and we are now just a few days before the end of the fiscal year. The published accounts of their deliberations indicate the President's capital gains proposal as the chief stumbling block.

The President said today in Ohio: "The problem is not capital gains; it is Capitol Hill." His spokesman down at the White House says the President has not backed off capital gains and that he was flexible all along. However, this flexibility if it is there is as a consequence of public opinion and pressure from leadership on Capitol Hill who understand what is at stake.

The Republican leader in the Senate and the House have broken with the President. Fortunately, they understand the disaster which is about to befall us unless we act.

Some have discounted the danger of the sequester which will begin on October 1 if no agreement is reached. All but one of the Republicans on the House Appropriations Committee yesterday took the position that a sequester is preferable to pushing the date when the sequester would begin back to October 20 in the final hope that a summit agreement could be reached.

Mr. President, the sequester would bring America to its knees. The lives of every employee of Government would be needlessly shattered. Those who have tried to equalize this burden by the addition of congressional salaries to the list of expenditures to be reduced only add fuel to the fire of offense. We are responsible for the sequester, for God's sake. If equity is the objective, our salaries—as well as those of the President, Vice President, and all of the Cabinet—should be cut off entirely for every day the sequester is in effect.

In addition, we are going to discover in a hurry that the work of government which is most appreciated by Americans is done by the people affected by the sequester. We are going to learn that the relative value of their labor exceeds that of our own.

For example, those little known men and women who inspect meat in America's packing and processing industry are suddenly going to look very important. If the sequester goes into effect, these inspectors will not be laid off until October 9, in hopes that the budget crisis will have passed. But on that day the agency's meat inspectors will take 4 days off, and the whole meat slaughtering and packing industry will be virtually shut down.

Mr. President, there will be real business loss as a consequence of this action. We will not have to resort to theory or abstract predictions. The impact will be immediate: Packing houses will shut down and jobs will be lost; cattle feeders and ranchers will not be able to sell their products. The market and our food distribution system will be permanently damaged.

This damage will be the result of our inability to do what we were elected to do: Decide the form of our Government and then provide the funds to operate it. Amendments to reduce our and the executive branch salaries will not protect us from the consequences of our failure.

My own view of the summit is that we had to sit down with the President to try to work out an agreement. He asked, and we had an obligation to try. I have a great deal of respect and admiration for congressional leaders who have given much of their attention to this difficult task for the past 4 months.

Unfortunately, the President's obsession with the capital gains tax has made it impossible to reach agreement. His tough talk now about vetoing a bill extending the date on which the sequestration will begin is further evidence of the danger of being obsessed with a single, all excluding goal.

My own view of the summit is that we should declare it a failure. Throughout most of the discussion elected Members of Congress—who have the constitutional obligation to make appropriations—have been meeting with nonelected members of the executive branch who have no such obligation. This arrangement has also contributed to the difficulty of getting an agreement.

My own view is that we should bring the summit to the floor of the Senate. We know we cannot postpone these difficult decisions any longer. We know the day of reckoning has arrived. We know we will be voting for spending reductions and tax increases that most of us would prefer not to do. We also know that we must—for the good of our country—do it.

I thank the Chair, and I yield the floor.

FAMILY PLANNING AMENDMENTS OF 1989

Mr. DODD. Mr. President, I rise today, as chairman of the Subcommittee on Children, Families, Drugs, and Alcoholism, to express my support for the motion to invoke clouture on S. 110, the family planning amendments of 1989.

It is easy for me to support a program which has such an exemplary track record as title X. Since its original authorization 20 years ago as part of the Public Health Act of 1970, title X has been meeting the basic health care and contraceptive counseling needs of low-income women and teenage girls.

From the beginning, title X has enjoyed solid, bipartisan support. In fact, one of the most vocal of the original cosponsors was a Republican Congressman from Houston named George Bush. He supported this measure then for the same reasons I support it now, it is a responsible, sensible, and vitally important program.

In this era of budget deficits, it seems only rational to authorize those programs with proven records of effective cost/benefit ratios. In this regard, title X has distinguished itself as a highly cost-effective program—for every dollar spent in family planning, we save $2 in the following year in health and welfare costs associated with unintended births, and that ratio increases to nearly three dollars saved with every dollar spent when we extend these services to teenagers.

If we fail to ensure that this program survives for the next 5 years, we risk placing an even greater burden on our already beleaguered welfare system—to say nothing of phenomena such as homelessness, drug addiction, and skyrocketing high school dropout rates, which often comprise the devastating cycle of unwanted pregnancies. In my mind, this is an unnecessary and unacceptable risk.

Mr. President, we cannot hope to achieve our overall agenda of full liter-

acy, higher educational test scores, greater self-sufficiency for low-income individuals, and fewer drug-addicted babies if we fail to invest in family planning at the Federal level. The question is not whether or not to pay for family planning. The question is whether we will pay for title X now and for the next 5 years at a reasonable price tag, or, failing that, once again saddle ourselves in the future with the far greater costs—in both human and financial terms—or raising a generation of unwanted, often drug-addicted children.

For these reasons, I urge adoption of the cloture petition.

Mr. DURENBERGER. Mr. President, I rise to explain my reasons for voting against cloture on the committee substitute before us. This is a difficult choice for me, based on my public position and strong personal convictions on this matter.

I strongly support Federal funding of family planning programs. I feel very strongly that title X should be reauthorized in its own right, and not have to go from year to year on an appropriations bill. A program of this importance deserves to be authorized in the proper way.

However, I cannot support efforts to take this bill hostage to the broader issue of abortion. It is my opinion that both the Chafee amendment we considered last night and the report language which accompanies this bill will unnecessarily embroil this issue in the larger issue of the Supreme Court's consideration of a pending law suit and perhaps Roe versus Wade itself. As a supporter of the reauthorization of title X, I object to the use of this bill as a legal brief to state congressional intent.

Were it not for the efforts of the sponsors to put the Congress on record on one side of the pending litigation, I would have less problems with the bill before us and a limit on its debate. Its structure and funding level are more appropriate than those contained in the administration's bill. That is why I voted against the substitute offered by Senator HATCH last evening. My strong preference would be for a reauthorization such as my colleague from Minnesota has proposed: The committee bill without the language which brings in the broader abortion-related issues.

Mr. President, this bill is headed for the veto block and for no good reason. For the sake of passage of the first family planning bill in 5 years, I believe the Senate should remain silent on the issue in litigation until the court has had an opportunity to decide. Absent that, we have much more productive business to do in the last days of this Congress.

Mr. GORTON. Mr. President, I will vote against cloture this evening. While I am not opposed to family planning, I resent the tactics being used by the Democratic leader to shut off debate on a crucial piece of legislation.

A bill of this magnitude, which affects thousands of women's lives, needs to receive a full and fair debate by the Senate, allowing for consideration of all relevant amendments.

It became clear last evening, after four amendments were introduced by Republican Senators, that we were not going to have a fair hearing of this measure. To limit debate on such a potentially controversial bill as this is unacceptable.

Mr. President, this is no way to do business. I oppose such tactics on a proposal as crucial as this one. It demonstrates a strong-arm approach to which I will not acquiesce. So I will be voting against cloture.

Moreover, it is time we concentrated on this one overriding issue. The fiscal crisis facing the Nation. We should debate no other subject until we have surmounted that crisis. I intend to vote against cloture on any other bill unless and until the budget has been completed—well.

Mr. SPECTER. Mr. President, I am voting against cloture to close off debate on the family planning legislation because I believe that other Senators are entitled to more time to offer amendments and to debate all aspects of this important legislation.

Today, Senator ARMSTRONG had substantial problems, as disclosed by the RECORD, in bringing forward his amendment for debate and a vote. Even though I voted against Senator ARMSTRONG's amendment, I believe he had a right to offer it, have it debated, and voted upon.

Accordingly, I believe that more time is appropriate for offering amendments and deliberation on this legislation so I am opposing the cloture motion to cut off debate.

Mr. HELMS. Mr. President, I do hope cloture will be defeated on this latest piece of the antifamily agenda, the so-called Family Planning Amendments of 1990, S. 110.

This bill is not really about family planning, but whether the Government should pump another $150 million into clinics that funnel teen-age girls to abortionists without parents knowing about it.

Mr. President, the 20-year Planned Parenthood experiment has been an abysmal failure. There is absolutely no evidence that Federal family planning programs have reduced teenage pregnancy or abortion rates—which now exceed 400,000 per year for girls aged 15-19. Clearly, the Government has absolutely no business coming between children and their families in order to substitute the Government's value system for that of the American family.

The American family is fast disappearing. Fifteen million American children are growing up today without a father; one-fourth of all live births occur out of wedlock; the number of divorces now reaches 1.2 million per year. These numbers represent the greatest social emergency in our history.

The disintegration of the family is a prime cause of crime and drug abuse and is the best explanation for the crisis in education and the continuance of poverty despite the largess of the welfare state. Combine this with the widening acceptance of violence and pornography in our everyday lives, and you see why America is becoming a modern-day Rome.

Mr. President, it is no accident that the totalitarian tyrants of this century have tried to destroy the family unit. From Moscow to Havana, the prophets of government planning have deliberately crushed the family and replaced the authority of the family unit with the power of the tightly controlled party bureaucracy.

Where the family withers away, Government moves forward and finally dictates. Our families are withering away under the pressure of constant Government interference.

Mr. President, if there is a more destructive Federal family program than title X, I am hard-pressed to find it.

For 20 years, millions of dollars have been wasted on the premise that the surest way to prevent teen pregnancy was to provide children with free and ready access to contraceptives. However, after sex education and the unencumbered availability of drugs our children—often supplied through school based clinics, which I will more fully address at a later time—are getting pregnant and having abortions at a catastrophic rate.

Mr. President, Planned Parenthood claims that in 1987 there were 200,000 fewer births to teens than in 1970, as a direct result of its program. However, if you peel away the veneer you will find another picture. In 1987 there were 400,000 fewer adolescents than in 1970. In 1987 there was an increase of 53.5 percent in the number of births to unmarried teens. Even with 400,000 fewer teens there were 250,000 more abortions performed and an overall increase in the pregnancy rate among teenage girls in 1987 than in 1970.

Mr. President, in 1970 fully 70 percent of births to teenagers were to married teens. In 20 years that percentage has been completely reversed. As the chart shows, 64 percent of all teenage births in 1987 were nonmarital, that means 302,500 children were born to unwed mothers age 15-19, as compared to 190,000 in 1970.

By Planned Parenthood's own admission very few sexually active teenagers have not used contraceptives. However the universal availability of contraceptives has encouraged, not

quelled, the explosive rise in teen sexual activity. What we have seen is greater abortion and pregnancy rates. Even Planned Parenthood's allies, such as the National Research Council, could only credit increased contraceptive use with holding the pregnancy rate stable. That is a remarkable assertion. If contraceptive use were effective, one would expect the pregnancy rate to have gone down. That the proponents claim the rate has only remained stable after 20 years is a testament to the failure of title X programs, and an indictment of those who have such a devil-may-care attitude to the emotional and physical well-being of our Nation's youth.

There are hundreds of family planning clinics across the Nation. According to the National Research Council, patients under the age of 18 account for about 40 percent of the clinic clients. Planned Parenthood's own figures show that States with a high proportion of teenagers using the clinics, have lower birth rates, but higher abortion rates. They have higher, not lower pregnancy rates.

Mr. President, in testimony before the Labor Committee in July 1987, Stan Weed of Brigham Young University concluded that family planning involvement doesn't reduce overall pregnancy rates, rather it appears related to higher rates of teen pregnancy. Weed stated that we can ill afford to go another 15 years assuming that we have an adequate solution—meaning current Planned Parenthood programs—in hand. Planned Parenthood has been unable to refute that conclusion.

Many advocates of increased funding of title X argue that the increased incidences of pregnancy among teens is almost entirely attributable to ignorance about birth control. I think I have countered that line of thinking, but if I have not, I want to talk about a book I came across last week, which the family planning crowd would do well to read. The book is entitled "When Children Want Children" by Washington Post correspondent Leon Dash.

The Post assigned Dash to a yearlong investigation of the condition of teenage women in one of Washington DC's poorest neighborhoods. Dash admits he went into the assignment with a number of preconceived liberal notions about why the condition of the District's youngsters was so bad. As Dash said:

> I assumed that the high incidence of teenage pregnancy among poor, black urban youths nationwide grew out of youthful ignorance both about birth control methods and adolescent reproductive capabilities. I also thought the girls were falling victim to cynical manipulation by the boys * * * I was wrong on all counts.
>
> Among the adolescents in Washington D.C. whom I interviewed I found that teenage boys and girls as young as 11 knew more about sex, birth control, and their reproductive abilities than I had known at the same age. Others had had extensive school courses in sex education in the sixth or seventh grades. I did not find one adolescent couple where both partners were ignorant about the results of sexual activity without the use of contraception.

Child after child interviewed by Dash confessed that they had unfettered access to birth control in the city. In fact even those who told several commissions on teen pregnancy that they had become pregnant because they did not know about reproduction or birth control, later confessed that they had been lying. They became pregnant for reasons other than lack of information and birth control.

One study Dash quoted—a study by the Center for Population Research—found that 23 percent of adolescent mothers admitted to intentionally becoming pregnant. When that figure is added to the children who hide or lie about the choices they made the final figure on children wanting children is staggering. As Dash put it, "when even 23 percent of these children want children, for whatever collection of reasons, we have a serious crisis facing our Nation."

Mr. President, Leon Dash is right on the mark. As the chart shows, the birth rate among unmarried teenagers in our inner cities is staggering: from 96 percent in Washington to 80 percent in Seattle.

Family planning policy has assumed that American teenagers will not delay sexual activity but will readily use contraceptives. However the way American teens often conduct themselves has little to do with reason or calculation. As I have pointed out teens with access to contraceptives fail to use them or as Leon Dash found—choose to get pregnant. After 20 years we know that the Band-Aid, amoral solutions offered by title X will not work.

If we are to stop children from having children we must rid ourselves of the notion that pregnancy among our teenagers is the result of ignorance or the unavailability of contraceptives.

Mr. President, we already have the means to reverse the slide which title X has accelerated. In 1981, the junior Senator from Utah [Mr. HATCH], and our former colleague Mr. Denton, proposed the Adolescent Family Life Act of AFL. Unlike the contraceptive focused title X, AFL requires any federally funded project to obtain the permission of parents as a precondition for participation by teenagers. AFL also attempts to counsel teenagers on abstinence, rather than assuming children will have sex anyway, so why not fill them full of pills.

Unfortunately, Mr. President, the Planned Parenthood crowd has seen to it that the AFL program has been woefully underfunded. As Senators can see, in fiscal year 1990, we spent $9.4 million on AFL, compared to $140 million on title X.

One project which AFL sponsors in Georgia, is called Postponing Sexual Involvement. That program trains adults to work with families to encourage teens to resist the pressure to engage in early sexual activity. According to Nabers Cabaniss, Deputy Assistant Secretary for Population Affairs at HHS:

> The project has demonstrated declines in pregnancy, abortion and birth rates over the last 3 years, and evaluation of the pregnancy rates of eighth grade female program participants against a matched comparison group shows that 5 percent of program participants become sexually active by the end of the school year compared to 15 percent of the other group.

The program Secretary Cabaniss described, is now the preferred family education course in one-third of Georgia's schools.

In 1981, Senator HATCH argued that dealing with our children, in the context of their position in the great American family, is more beneficial than dealing with them as mere recipients of Government aid. It is the job of Congress to encourage the health of the family, not to supplant it with bureaucrats and social workers. Plain common sense tells us that is true.

Unfortunately, plans are afoot to turn the AFL program into a mere adjunct of the title X program. There is a crowd in this town, with allies in the Congress, who want to deny funds to those groups which promote abstinence. As I understand it, their plan is to destroy AFL by denying funds to groups who do not fill children full of contraceptives or refer them to abortionists—remember 400,000 teenagers had abortions last year.

Mr. President, advocates of family planning ought to stand on their record. That record by any standard is one of failure. In 20 years pregnancy rates have soared, and the number of abortions performed on our children, has become a profound national tragedy. Unless the Congress abandons this discredited policy, another generation—especially the Nation's children and poor—will be lost.

It is time to declare that traditional families are the source of our Naiton's strength. Families who choose to have children, are protecting our future. Families who choose adoption over abortion, are to be praised. Parents who choose to raise their families themselves, instead of leaving it to somebody else, should be encouraged, not penalized by unfair taxes. Public policy must support these and other fundamental family decisions.

We can no longer afford to be neutral. We become a part of what we condone. If we do not reverse our course, America will find itself on the ash heap of history precisely as the

Marxist despotisms and the Roman Empire did before them.

I ask unanimous consent that an article by Nabers Cabaniss on the Adolescent Family Life Act, a study on the effects of family planning by Mr. Stan E. Weed, and an editorial from the February 13 edition of the Washington Times, be printed in the RECORD.

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

[From the World & I, September 1989]

A LOOK AT THE ADOLESCENT FAMILY LIFE ACT

(By Nabers Cabaniss)

In 1981, federal policy aiming to prevent out-of-wedlock teen pregnancy took a new turn. No longer would the government focus exclusively on providing teens with contraceptive services. Instead Congress took a step back to look at the underlying roots of the problem, focused on the family as the cornerstone of the solution, and endorsed strategies that affirm sexuality in the context of marriage while encouraging teens to postpone sexual activity.

This new federal approach, called the Adolescent Family Life Act (AFL) and enacted under the leadership of Senators Jeremiah Denton (former R-Alabama) and Orrin Hatch (R-Utah), provided an alternative to the pessimistic idea that only a massive infusion of funds for contraceptive distribution and sex education could stem the growing tide of out-of-wedlock teen pregnancies. Unlike previous policies, AFL did not adopt the defeatist stance that widespread teen sexual activity was inevitable and unavoidable. Nor did this legislation assume that mere prevention of teen pregnancy was sufficient. Addressing the corollary problems of sexually transmitted diseases and the emotional trauma that premature sexual involvement can cause, AFL affirmed the family as the primary force for guiding and educating teens by exemplifying the meaning of sexuality in the context of love, fidelity, and marriage; it supported family-centered, community-based efforts to promote sexual abstinence for unmarried adolescents.

As Congress stated in the words of the Adolescent Family Life Act,

"[P]revention of adolescent sexual activity and adolescent pregnancy depends primarily upon developing strong family values and close family ties, and since the family is the basic social unit in which the values and attitudes of adolescents concerning sexuality and pregnancy are formed, programs designed to deal with issues of sexuality and pregnancy will be successful to the extent that such programs encourage and sustain the role of the family in dealing with adolescent sexual activity and adolescent pregnancy." (Title XX of the Public Health Service Act, Section 2001(a)(1)(A).)

Eunice Kennedy Shriver, one of the original proponents of AFL, expressed a similar view:

"To do something helpful about teenager sex and pregnancy, we do not need more money for the mechanics of birth control or more value-free sex education. We need efforts that strengthen the family commitment and marriage and get at the problems that lead adolescents into early sexual activity."

(Quoted in Senate Report 97-161, Committee on Labor and Human Resources)

THE RISE OF THE TITLE X PROGRAM

Although enactment of AFL signaled a widespread, renewed recognition of traditional wisdom concerning sexuality, marriage, and the family, it clearly did not suggest anything approaching a wholesale retreat from the contraceptive approach that advocates distribution of more and more contraceptives to halt the runaway teen pregnancy rates. Appropriating $11 million for AFL in 1982, Congress simultaneously allocated to the Title X family planning program $124 million—eleven times more. (Although this amount was 25 percent less than the amount appropriated the previous year.) Today, the disparity in funding the two approaches has widened even further so that AFL, receiving only $10 million, gets one-fourteenth the budget accorded the contraceptive-focused Title X program.

The Title X program, which provides contraceptive services through four thousand clinics to over four million women annually (over one-third of whom are adolescents), requires clinics to "encourage family participation" but prohibits informing parents if their child receives contraceptive drugs or devices. Efforts by the Reagan administration to require such parental notification were overturned in court, necessitating action by Congress to alter the current policy.

AFL, on the other hand, not only requires that parents consent to their child's participation in the program, it further requires that projects actively involve the family and the local community (including charitable, voluntary, and religious organizations) in developing effective prevention strategies.

The difference between the strategies advocated by AFL and the Title X program clearly give rise to many questions: Is there evidence that a "values-based" approach helps prevent teen pregnancy? Is teen sex "OK as long as teens use contraception"? Can current rates of teen sexual activity be lowered, or will they inevitably escalate? The real question is this: Are all of us, particularly parents, teachers, and community leaders, committed to the belief that the healthiest way of life for adolescents involves postponement of sexual relationships, with all of their physical and emotional consequences—and are we willing and able to assert that view? Or do we simply accept the current rates of teen sexual activity as inevitable and pour more money into contraceptives?

FLAWS OF THE TITLE X PROGRAM

How we answer these questions and how we view the AFL and Title X programs depend on how we react to the facts. Among these, we should certainly consider the following:

Most teens are not sexually active. Fewer than half of all teenage girls fifteen to nineteen years old have ever engaged in sexual activity. As would be expected, the rates varies by age: an estimated 18 percent of all fifteen-year-old girls have engaged in sexual intercourse, compared to 41 percent of all those who are seventeen. Although the proportion of sexually active female adolescents increased rapidly during the 1970s, data from the 1980s suggest a leveling off.

No contraceptive method even approaches 100 percent effectiveness. The pill, the method most effective in preventing pregnancy—and the one most commonly used by teens—offers no protection against sexually transmitted diseases, which now rage at epidemic levels in some adolescent populations. Should a contraceptive strategy focus on preventing pregnancy and accept the inevitable increase in sexually transmitted diseases, some of which are incurable, others of which cause sterility, and others of which can cause death? Or should we emphasize use of barrier contraceptives to prevent disease, even though these tend not to be used as effectively, thus presenting an increased risk of pregnancy while retaining the additional risk of disease?

Teens who are sexually active, as well as people of other ages in nonmonogamous sexual relationships, are notoriously poor users of contraception. Even among sexually active teens who regularly use contraceptives (the small minority), one in ten are pregnant in two years. Why is it that we expect children, many of them too young to drive, to use oral contraceptives properly when we don't permit them to manage a bank account, contract for other medical care without parental permission, or, in most states, buy cigarettes or alcohol?

THE VALUE OF THE AFL PROGRAM

The Adolescent Family Life program funds projects designed to enhance teens' health and happiness by enabling them to develop unencumbered physically and emotionally by the burdens of premature sexual involvement. The program does not merely promote adolescent abstinence by using simplistic "Just Say No" campaigns but provides adolescents with a context in which to make healthy choices. The program gives positive reasons to delay sexual activity, affirming the dignity of teens and their ability to make choices that will help them to lead purposeful, productive, happy lives.

Adolescent Family Life prevention projects have shown that they can change the attitudes and values of participants in ways that decrease their likelihood of teens engaging in premature sexual activity. Programs are improving teen-parent communication about sexual matters and altering teen attitudes about engaging in sexual activity.

Evaluations of some of the most promising of the Adolescent Family Life prevention projects have yielded the following:

Postponing Sexual Involvement, a prevention curriculum developed at Atlanta's Emory Univeristy, shows results in substantially fewer participating teens becoming sexually active (than in the comparison group) and reduced pregnancy, abortion, and birth rates.

Sex Respect, a project that explicitly promotes abstinence as the healthiest choice for teens, which is being piloted at schools in Illinois, Kansas, Missouri, and Wisconsin, increases participants' support for the value of postponing sexual activity, enhances their belief that stopping already begun sexual involvement is possible and desirable, and heightens their awareness of the risks and consequences of engaging in early sexual activity.

Values and Choices, a curriculum developed by the Search Institute of Minneapolis that provides information on sexuality, self-esteem, values, decision making, and ways of dealing with peer pressure, has demonstrated short-term effects on teen attitudes regarding sex. This project also found that knowledge alone has little effect on sexual decision making and that teens' own values and strength of conviction about what is right far outweigh peer pressure or fear of consequences.

Me, My World, My Future, A junior-high-level curriculum developed by Teen Aid, Inc. of Spokane that emphasizes the meaning of sexuality in the context of self-respect, re-

spect for others, and respect and love for one's future spouse and children, increases participating teens' awareness of the advantages of abstinence.

Despite preliminary evidence of success, AFL has been embroiled in controversy from its very inception. Widely ridiculed as the "teenage chastity bill" and yet originally endorsed unanimously by Congress, AFL was the immediate target of an American Civil Liberties Union (ACLU) lawsuit aimed at excluding all but a contraceptive, abortion-involved approach as the answer to the teen pregnancy problem.

Filing in 1983 on behalf of taxpayers, three Methodist ministers, a Unitarian minister, and the American Jewish Congress, the ACLU contended that the AFL statute was unconstitutional (1) "on its face" because, among other things, its promotion of abstinence and prohibition on using funds for abortion-related activities amounted to an unconstitutional "establishment" of certain "religious" views; and (2) "as applied" because of the manner in which Health and Human Services (HHS) was administering the program and grantees were allocating funds. Four years later, the district court ruled. While declaring that the AFL program has a valid secular purpose, the district court asserted that it nonetheless impermissibly promotes religion because of the involvement of "religious organizations" in counseling and educating adolescents, thus creating a "crucial symbolic link" between church and state.

According to the district court's opinion, because abortion and premarital sex are contrary to the tenets of certain religious denominations and because organizations affiliated with these denominations are eligible to receive AFL funds, the AFL unconstitutionally subsidizes a "fundamental religious mission" of those organizations. (One wonders how, based on that argument, any religiously affiliated hospital or charitable organization could ever qualify for federal funds in any context, since charity is clearly endorsed by many denominations.) Furthermore, the court ruled, ". . . the statutory scheme is fraught with the possibility that religious believes might infuse instructions and never be detected by the impressionable and unlearned adolescent to whom the instruction is directed. *This possibility alone amounts to an impermissible advancement of religion.*" (*Kendrick* v. *Bowen*, 657 F. Supp. 1547 (D.C.C. 1987)

When the U.S. government appealed this case to the Supreme Court, the Court reversed the district court ruling in 1988 (*Bowen* v. *Kendrick*, 108 S. Ct. (1988) 2562). It upheld the constitutionality of the AFL statute on its face, holding that the statute did not have the primary effect of advancing religion and did not create an excessive entanglement between church and state. However, the Supreme Court did not address the constitutionality of the statute as applied—that is, whether the program has been administered by the Department of Health and Human Services or any grant recipient in an unconstitutional manner. Once the case was returned to district court, ACLU attorneys began to rummage through HHS files, calendars, computer disks, and phone logs for religious references and interrogated staff members about the management of the program. ACLU attorneys conducted similar forays into the workings of any grant recipients who might possibly be religiously affiliated or have a prolife mission. The case is still pending before the district court.

On the legislative front, AFL continues to be the target of advocacy groups who would prefer to advance a different set of values. Sen. Edward Kennedy (D-Massachusetts), for example, has introduced and reported out of the Senate Labor and Human Resources Committee a bill, S. 120, that would turn the policy focus of AFL upside down. S. 120 not only eliminates AFL's unique focus on promoting teen abstinence but also replaces it with promotion of education on family planning services and methods. Eliminating all requirements for parental consent or involvement as well as all restrictions on promoting, counseling, or referring teens for abortion, the bill also does away with AFL's special advocacy of adoption instead of abortion. Needless to say, the Bush administration strongly opposes such a perversion of the Adolescent Family Life Act.

What course will policymakers take in the 1990s? The answer is unclear. One can only hope, however, that their actions will be in accord with lessons taught by AFL and the research of the 1980s. While many would still prefer to view teen sexual activity and pregnancy as mere medical issues, treatable by "quick-fix" clinical solutions such as contraceptive distribution and education programs, common sense, research, and experience teach us that the only successful approach will be one, such as AFL's, that focuses on the whole child—physical, emotional, moral—and that supports the family in the rearing and nurturing of the child into mature adulthood, when he is capable of wise choices, self-restraint, and mature love.

(Nabers Cabaniss is the Deputy Assistant Secretary for Population Affairs in the U.S. Public Health Service, Department of Health and Human Services. Since 1985, Miss Cabaniss has served as director of the Office of Adolescent Pregnancy Programs with oversight and responsibility for the Adolescent Family Life program.)

EFFECTS OF FAMILY PLANNING PROGRAMS ON TEENAGE PREGNANCY

(By Stan E. Weed, Institute for Research and Evaluation)

(Briefing on "The Impact of Family Planning Services on Teenage Pregnancy," Organized for Senator Edward M. Kennedy, Chairman, U.S. Committee on Labor and Human Resources, July 30, 1987)

My name is Stan E. Weed. I am the director of the Institute for Research and Evaluation, a non-profit research corporation which specializes in those social problems and policies related to adolescents: teen pregnancy, drug abuse, delinquency, and suicide. My Ph.D. is in Social Psychology from the University of Washington, with special emphasis in research methodology, quantitative methods, and data analysis related to applied research.

I am pleased to participate in today's hearings, and hope I contribute to your important deliberations. The position that I come from with regard to policies and programs is a very practical one, and hopefully similar to that of policy makers and administrators. This position has to do with some basic questions about policies and programs: "Does it work? Does it produce the intended results? How do we know? What is the evidence and how valid and reliable is it? If it doesn't work, why not? If it does work, is it cost-effective?"

These are not questions that are unique to any particular moral position or value system. Unless of course fiscal responsibility and governmental integrity are unique values. I am assuming they are not, and that all of us want to do not only that which is necessary and important, but also that which is effective—even cost effective.

With that context in mind, let me show you what we have learned about family planning programs, and their effectiveness over the past fifteen years, as it relates to adolescents.

EFFECTS OF FAMILY PLANNING PROGRAMS ON TEENAGE PREGNANCY

During the past decade and a half, a major federal attempt to address the problem of teenage pregnancy has consisted of the provision of family planning services to teenagers through some 5,000 family planning clinics throughout the country.

Currently, about a million and a half teenagers are involved in these clinic programs each year. During this period, there has been a decline in the adolescent birth rate, but a general increase in the abortion rate as well as the overall pregnancy rate.

(Chart not reproducible in Record).

With respect to teenage pregnancy, these national figures give us cause for concern and tell us somethng about the magnitude of the problem, but they do not tell us if the changes in the national teen pregnancy rate are systematically related to program and policy changes. Even though we see a change in the pregnancy rate that appears to correspond with a change in the number of clients served, this "eyeball" correlation does not necessarily mean that these two factors are directly related to each other. For example, some other factor (or factors) may cause these two things to rise or fall simultaneously.

It is essential that the other things which also affect teenage birth rates (race, poverty, urbanization, mobility, prior fertility, etc.) be taken into account in estimating program effects. Without attention to these other factors which affect the teenage pregnacy rate, one could not legitimately infer program failure as the pregnancy increases or program success if the rate were to fall. Our research was designed to deal with these and other issues, and to provide an accurate assessment of the effects of family planning programs on teenage pregnancy rates. The fundamental question was relatively simple and straightforward; and addresses a very pragmatic question that policy makers and administrators must ask: "How effective are family planning programs in reducing teenage pregnancy rates? Does increasing the availability and accessibility of contraceptive counseling and services to teens reduce their pregnancy rate as was expected?" This effectiveness question was targeted at the societal level. We approached family planning for teenagers as a social policy or public health issue, which required that we look broadly at data from throughout the country rather than relying on results from a few clinics or a small sample of clients. It was the net societal effect that the policy was aimed at.

Using data from all 50 states and the District of Columbia, we examined program impact throughout the 1970's and early 1980's. This time perspective is important because we needed to ensure that there had been enough time for adequate implementation and reach into the target population. It also permitted replication of the basic findings from year to year, and the use of longitudinal models which could examine changes over time in the pattern of results.

REVIEW OF FINDINGS

With this minimal background, let us review briefly the major findings of the re-

search. The details are available in the technical reports and our time is short, so we will simply try to highlight the main results.

Prior to our research, there didn't appear to be any studies which had directly examined the effects of family planning programs on teenage pregnancy rates. However, there were several which had estimated the impact of teenage participation in family planning programs on adolescent birth rates. One of the significant efforts looking at the impact on birth rates was done by Dr. Jacqueline Forrest (Alan Guttmacher Institute) and her colleagues and was published in 1981. This study was significant for several reasons:

1. It attempted a comprehensive national assessment of program impact using subunits (counties) in the society of direct interest.

2. It was the first to use age-specific family planning participation rates for teenagers.

3. It used longitudinal as well as cross-sectional analyses.

4. It has served as the basis for estimates of program impact that were widely cited in congressional testimony, as well as in the professional literature and the media.

The study directly estimated program effects on birth rates (for 1975 and 1976), and on the basis of these effects, projections were made concerning the potential effects on overall pregnancy rates. However, since the appropriate abortion figures were not available at the county level, an essential component of the overall teenage pregnancy rate was missing from the study, and therefore a direct estimation of program impact on pregnancy rates was not possible. Additional research was needed to determine the effects on pregnancy rates. Our research and a subsequent study by Susheela Singh (1986) of the Alan Guttmacher Institute have now examined program impact on total pregnancy rates and also on abortion rates.

Pregnancy rates constitute a more appropriate and direct measure of program success than do birth rates, and correspond with the stated intentions and goals of the program—the reduction of unintended pregnancies. "If we focus on freedom from unplanned births, then abortion is a means of achieving our goal. If we focus on freedom from unplanned pregnancy, then abortion is a measure of the problem we face . . . The objective of the service program is best measured in terms of preventing unplanned pregnancies, not just unplanned births." (Tyler, 1982:221-223)

Our studies and the 1986 AGI report provide important new information and significant corroboration concerning the effects of family planning programs for teenagers on adolescent pregnancy, abortion, and birth rates.

If we compare our results for 1980 birth rates with the projections for that year, we see substantial agreement. Data for other years and other statistical models confirm the same basic finding: where family planning program involvement is greater, one can expect to see lower teenage birth rates. The finding is robust and stable and is found in the 1981 and 1986 AGI studies, as well as our own. The size of that effect is about 80 fewer births for every 1000 teenage clients in organized family planning programs.

However, rather than the projected reduction of 282 total pregnancies for every 1000 clients, we observe an increase of some 42 pregnancies per thousand clients. The main explanation for the discrepancy between the projected reductions and the effects we observed involves the previously unanalyzed relationship between family planning participation and abortion rates. Instead of the projected reduction of some 170 abortions for every 1000 teenage family planning clients, we see about 120 more abortions per thousand clients. Just as we found with birth rates, these findings hold up for the various years, with abortion data from the Centers for Disease Control as well as for the AGI data, and with both longitudinal and cross sectional analyses.

In addition, we analyzed the data in terms of both the occurrence and the resolution of pregnancy. The observed reduction in birth rate was due not to a reduction in the initial occurrence of pregnancy but to a more frequent termination of pregnancy through abortion.

We have also been able to compare our results with those of the recent 1986 AGI study. This is a little difficult from the published reports since their study reports regression coefficients only in standardized form and the values of some coefficients are not reported. Still, where comparisons can be made, the results are very similar, and provide support for our conclusions.

EFFECTS OF TEENAGE FAMILY PLANNING PROGRAM PARTICIPATION ON ADOLESCENT PREGNANCY, BIRTH, AND ABORTION RATES

[Standardized regression coefficients]

	Pregnancy	Birth	Abortion
Basic model:			
Singh	.28	NR	.44
Weed and Olsen	.23	−.21	.49
Prior fertility controlled:			
Singh	NR	−.29	.43
Weed and Olsen	.24	−.22	.49

Note: NR = not reported.

The negative relationship of family planning involvement with birth rates shown in these studies has been known for some time. However, the positive relationship with abortion and pregnancy rates appears equally consistent across the studies. Although they are new, our own assessment is that these findings are here to stay and have important scientific and public policy implications.

ABORTION AVAILABILITY AND SEXUAL ACTIVITY

As a result of the publication and presentation of these studies, friends, colleagues, and critics have helped us test our thinking and our analyses. We think that the most fundamental question that could be raised about these results is called "model specification" by researchers. This has to do with the kinds of variables included in the analysis, and the relationship these variables have with the outcome of interest (teen pregnancy in this case) and with each other. The basic question is whether including some variable in the model which had previously been omitted might change the observed pattern.

For example, some have suggested that clinics are placed in the high need areas and therefore, one would initially expect to see a positive relationship between family planning and pregnancy until the programs were able to have a detectable impact. However, even after 10 or 12 years, we do not see pregnancy rate reductions. Even when we explicitly control for prior fertility, and use longitudinal models which implicitly control for *all* stable variables, whether measured or unmeasured, the same results are found.

Some have suggested that including a specific variable, such as abortion availability, non-program sources of family planning services, or sexual activity rates could change the observed positive relationship into the hoped-for negative one. The hypothesis concerning abortion availability was directly tested in the 1986 AGI study. Although abortion availability had an independent effect on the abortion and pregnancy rates, the family planning program effect did not change as a result of including this variable in the model.

With respect to sexual activity, we know that in society generally, teen sexual activity rates have gone up over the years. Some claim that if the analysis controlled for differences in levels of sexual activity, the projected reductions in teenage pregnancy rates would show up. It would help to have the necessary state-level data to test this hypothesis directly. Although we feel that data about sexual activity constitutes a necessary factor in understanding teen pregnancy, there are several basic reasons to believe that this variable would not alter the basic pattern of results found in the recent studies we and AGI have done.

First, neither a general increase in sexual activity nor stable differences among states in levels of sexual activity could account for the observed results. The design of our analysis can discount those possibilities. The changes over time in family planning program involvement would have to have a direct link with corresponding changes in sexual activity levels. The nature and causal direction of such a link remain to be established.

Second, much of the potential effect of sexual activity on family planning utilization is likely to already be controlled by the variables that have already been included in the models. Just as poverty, race, urbanization, mobility, prior fertility, etc., are strong predictors of teenage pregnancy rates, they also account for much of the variation in sexual activity. Where these and other variables have already been controlled, adding sexual activity is likely to have little effect on model parameters.

Third, the hypothesized effects of sexual activity would have to be extremely large (and inconsistent with other estimates) in order to drastically alter the pattern of our results and fit the prior claims of averted pregnancies. We have estimated what would be necessary to reconcile the previously projected reductions in pregnancy rates with the other information about the effects of sexual activity on family planning utilization and pregnancy among teenagers. This analysis (Weed and Olsen, forthcoming) demonstrates the mathematical and logical inconsistency of the projected teenage pregnancy reductions with the existing data and other information about the effects of sexual activity on clinic use and pregnancy. In summary, including sexual activity when estimating the effect of family planning programs on teenage pregnancy rates may be important and useful, but offers little hope for vindicating the previous projections of pregnancy reductions.

CONLUSIONS AND RECOMMENDATIONS

What do we conclude about the impact of family planning programs on teenage pregnancy? Our research and that done by others allows us to make four basic statements:

1. Family planning program involvement is related to lower teenage birth rates.

2. Family planning program involvement is associated with higher, not lower, abortion rates among teenagers.

3. Family planning program involvement does not appear to reduce overall teenage pregnancy rates.

4. The reduction in teenage birth rates which can be attributed to family planning program involvement is, in turn, due to its impact on the continuation and not on the occurrence of pregnancy.

What would we recommend in terms of a strategy for successfully dealing with the teenage pregnancy problem? First, we would recommend broadening the options when considering potential interventions. We would have to say that programs which rely on increased accessibility of contraceptive services as the major means of reducing teenage pregnancy are not likely to be effective. Teenage pregnancy is embedded in a complex set of social, psychological, and economic factors that must be taken into account if our efforts are to succeed.

We know more currently about what is not working than why it is not, or what will work. Why has the family planning approach not had the intended impact, and what kinds of interventions will be effective? Our current and future research efforts will focus on both of those latter aspects. We would also recommend more careful and systematic evaluation of program and policy interventions. "It is therefore imperative, regardless of which policies are adopted, to evaluate them continuously and carefully in order to be able to change them when and if needed. . . . The implemented policies should be evaluated to determine their impact on the incidence of premarital sexual intercourse, use of contraception, unwanted pregnancy, abortion, adoption, and parent-child communication. . . . We should not cast our policies and programs in concrete, and should consider changes based on a continuous flow of evaluative information. . . ." (Rodman, Lewis, and Griffith, 1984)

Given the drastic consequences of teen pregnancies, sexually transmitted diseases, etc., we can ill afford to go another 15 years assuming that we have an adequate solution in hand.

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MR. BUSH GETS SANDBAGGED

Last summer as Metro buses tooled around town bearing Planned Parenthood posters that depicted a bedraggled little girl under a caption that blamed Sen. Jesse Helms for killing her mother, Sen. Edward Kennedy was pushing a bill through the Senate Labor and Human Resources Committee that would ensure the continued flow of "Title X" subsidies to Planned Parenthood. If Mr. Kennedy can gather 60 votes to shut off a filibuster, the bill probably will pass Congress and land on the president's desk next October—just before the congressional elections.

Proponents of legalized abortion believe they have the president sandbagged. Mr. Kennedy's "Family Planning Amendments of 1990," as he calls them, are about "family planning," which the president claims to support, but about whether the federal government should funnel approximately $150 million a year into clinics that channel teenage girls to abortionists while preventing their parents from knowing about the ordeal.

Two years ago, the Reagan administration issued regulations that withheld family planning grants (Title X money) from agencies that referred women to abortionists. The law that created the grants program (which then-Rep. George Bush sponsored) explicitly states that "no funds appropriated under this Title shall be used in programs where abortion is a method of family planning." But that did not deter the Planned Parenthood Federation of America, other pro-abortion lobbies and the Massachusetts government of Michael Dukakis from seeking injunctions and filing suits claiming that abortion advocates have a First Amendment right to federal money. The U.S. Court of Appeals in New York has upheld the Reagan regulations in one suit; in two others, appeals are pending. Everyone agrees that if the issue goes to the Supreme Court, the administration wins and Planned Parenthood loses.

Mr. Kennedy does not want that to happen. If the president signs his bill, the regulations will be superceded, the court cases will be mooted and federal subsidies will continue flowing to Planned Parenthood and other organizations that help teenage girls gain abortions without their parents' knowledge or consent. This is where the sandbagging comes in: If President Bush vetoes the "Family Planning Amendments" on election eve, you can be sure that he will be accused of bedding down with the "anti-abortion" lobby while saying no to contraception too.

The president can avoid that setup by demanding discipline among Republican senators. If he doesn't, he will have to veto the bill in October and face the political heat. Either way, he ought to point out that there is no evidence that federal "family planning" programs reduce teen-age abortions (see chart). Besides, the federal government has no business standing between children and parents in order to substitute the state's values and moral guidance for the family's.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order, the quorum call has been waived.

The question, Is it the sense of the Senate that debate on the committee substitute, as modified, to S. 110, a bill to revise and extend the program of assistance under title X of the Public Health Service Act, be brought to a close?

The yeas and nays are required, and the clerk will call the role.

The bill clerk called the roll.

Mr. HUMPHREY (after having voted in the negative). On this vote, I have a pair with the distinguished Senator from Arizona [Mr. DECONCINI]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. SIMPSON. I announce that the Senator from Kentucky [Mr. MCCONNELL] and the Senator from California [Mr. WILSON] are necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 46, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—50

Adams	Glenn	Mikulski
Akaka	Gore	Mitchell
Baucus	Graham	Moynihan
Bentsen	Harkin	Nunn
Biden	Hatfield	Packwood
Bingaman	Hollings	Pell
Bradley	Inouye	Pryor
Bryan	Jeffords	Riegle
Bumpers	Kennedy	Robb
Burdick	Kerrey	Rockefeller
Byrd	Kerry	Sanford
Cohen	Kohl	Sarbanes
Cranston	Lautenberg	Sasser
Daschle	Leahy	Shelby
Dixon	Levin	Simon
Dodd	Lieberman	Wirth
Fowler	Metzenbaum	

NAYS—46

Armstrong	Ford	McClure
Bond	Garn	Murkowski
Boren	Gorton	Nickles
Boschwitz	Gramm	Pressler
Breaux	Grassley	Reid
Burns	Hatch	Roth
Chafee	Heflin	Rudman
Coats	Heinz	Simpson
Cochran	Helms	Specter
Conrad	Johnston	Stevens
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	
Exon	McCain	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Humphrey, against

NOT VOTING—3

DeConcini	McConnell	Wilson

The PRESIDING OFFICER. On this vote, the yeas are 50, and the nays are 46. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, at 5:30 this afternoon the Senate will begin voting on two cloture motions. I rise to urge Members to support cloture on the second matter—the motion to proceed with consideration of S. 874, the Voter Registration Act of 1989.

This bill was reported by the Rules Committee June 14, 1990, after extensive hearings during the last two Congresses on voter registration requirements throughout the country.

Those hearings made it clear that national standards were required if we were to effectively encourage full registration of all eligible persons nationwide. This bill will accomplish this by requiring all States to provide for registration in connection with motor vehicle driver license applications, by mail, and at agencies throughout the Nation. This combination of registration methods is designed to assure that there will be State outreach to just about every citizen who is eligible to vote.

The committee was mindful that such procedures must be accompanied by adequate protections against vote fraud. This bill would assure that States would have sufficient means to prevent and deal with fraud.

After this bill was reported, I began work with the Senator from Oregon to devise an amendment to strengthen it and to provide financial assistance to the States in the form of reduced mail rates for registration mailings. This amendment has bipartisan support and addresses many legitimate concerns from both sides of the aisle. I will join with the Senator from Oregon in presenting that amendment.

Mr. President, voting is not a partisan issue. This bill, together with the amendment to be proposed, will greatly increase the number of registered voters and hopefully make increased turnout of voters on election day a reality. It is not a partisan measure and deserves the support of all Members who wish to put an end to the national disgrace of low voter turnout.

I urge my colleagues to vote for cloture so that we may proceed to consideration of this most important bill this Congress.

Mr. CRANSTON. Mr. President, the right to vote is the most fundamental and important right of citizens of a democracy. It is through the electoral process in a democracy that the people express their will. Democratic institutions cannot function effectively without an accurate understanding of that will.

Unfortunately, in the United States voter participation is alarmingly low. This is a serious threat to our democracy. Barely 50 percent of the eligible voting age population voted in the last Presidential election in 1988. The 1986 congressional election had an even more dismal turnout. Barely one-third of the eligible voters participated in that election. There has been a steady decline in voting participation for many years and many elections.

The reasons why many Americans fail to exercise their right to vot are diverse and complex. But one factor stands out: Restrictions on voter registration prevent many Americans from voting. A poll conducted after the 1988 election by the New York Times and CBS News revealed that nearly 40 percent of those surveyed who failed to vote could not because they were not registered. Two-thirds of those said they would have voted but for the fact that they were not registered. Since over 85 percent of those registered to vote do so during Presidential election years, attempts to increase dramatically voter turnout must focus on those people who are not registered.

Unless we act to remove the barriers to voter registration and hence to voter participation, we run the risk of destroying the legitimacy of our democratic institutions. For this reason, I am wholeheartedly in support of the measure now before us, the National Voter Registration Act, S. 874, and urge my colleagues to join me in voting for cloture.

In many States, limitations and restrictions on the registration process are obstacles a voter must overcome to get to the ballot box. The impact of these restrictions and limitations often falls most heavily upon minority, low-income, and disabled citizens. S. 874 will remove registration barriers by requiring States to provide motor voter, mail, and agency registration.

The motor voter requirements entail including voter registration forms with applications for driver's licenses. This proposal, which has already been adopted by several States, promises to result in significant increases in voter registration numbers. States will also be required to accept mail-in registration forms. This system will allow people to register at their convenience rather than having to be at a specific place during limited hours. Finally, the bill mandates agency-based registration. Supplying voter registration forms at locations such as public libraries, schools, and tax offices will make registering to vote easier.

In addition to removing some of the barriers to voter registration, S. 874 will help ensure that once registered people are not unfairly removed from voter registration rolls. States will no longer be able to remove names from rolls on the basis of nonvoting in previous elections.

The important changes required by this bill will result in an increased opportunity for citizens to register to vote and, therefore, to vote on election day. It is clear that States that have acted to remove barriers to voter registration by the means mandated in this bill have some of the highest rates of voter registration in the country. We can achieve these results nationwide by enacting S. 874 into law.

The reforms incorporated into this bill are ones that I and others have been working on for years. Today we have the chance to reinvigorate our democracy by opening it more fully to citizen participation. Let us make the most of this opportunity.

It's indeed ironic that at a time when we are hailing the progress toward democracy in Central Europe, the Soviet Union, and elsewhere in the world, we find participation in the processes of democracy declining in our own country.

Are those who oppose this bill afraid of the voice of the people?

Are they afraid to open up the doors of our democracy to the poor and the disenfranchised?

Mr. CHAFEE. Mr. President, I would like to take a few moments to discuss S. 874, the National Voter Registration Act of 1989 and the cloture vote that will occur.

S. 874 would require States to offer three means of voter registration—the so-called motor voter, mail registration, and agency registration programs. The purpose of this legislation is to increase registration of eligible voters and therefore improve participation in elections.

Voting is a fundamental right, and I agree that we should encourage people to exercise this right. I am unsure, however, that S. 874 is an appropriate way to achieve increased voter participation.

Currently, each State sets its own rules or guidelines for registering people to vote in Federal elections. Many States have taken the initiative and already have implemented voter registration programs that would be mandated by S. 874: 15 States have agency voter registration programs, 28 States have mail registration programs, and 13 States—including Rhode Island—have some form of motor voter registration.

I commend these State efforts to facilitate voter registration. Each of these States carefully developed programs to meet the needs of their populations within the availability of their financial resources. Some States found that motor voter registration and agency registration are effective for them. Other States have all three voter registration programs in place that S. 874 would require. I believe that States have a better understanding of their individual needs with

regard to voter registration programs; the proponents of S. 874 obviously do not.

In addition, S. 874 does not include any financial provisions to assist States in implementing the mandates of the bill, yet the Congressional Budget Office [CBO] estimates that compliance with S. 874 would cost States $20 to $25 million in each of the first 5 years of enactment.

So in essence, S. 874 would remove the flexibility States currently have in determining their voter registration needs, require them to offer three types of programs that could exceed their needs, and not offer them any financial assistance.

I also would like to discuss another difficulty I have with S. 874—fraud and its relation to mail registration. Some people claim that most fraud does not occur at the time of voter registration, that it happens at the time of the vote and usually results from the actions of corrupt election officials.

That is not entirely true. In California, mail registration led to fraudulent filings through a phenomenon called "creative writing." The State experienced fake and duplicate registrations because of paid registration drives in which registrations were filed, often without the knowledge of the applicant, simply to fill a quota.

States that utilize mail registration often have requirements such as notarization or authentication of potential voters' signatures. Alaska, for example, requires that all registration applications received through the mail must be authenticated by the signatures of two adults. S. 874 would end efforts in Alaska and other States, such as New York and Illinois, to reduce the incidence of fraud because it prohibits mail registration forms from having "any requirement for notarization or other formal authentication."

I am aware that an amendment may be offered to allow States to use their own mail registration form. This would do nothing to reduce fraud. Even though States may be able to use their own forms, the forms still would be subject to the prohibition on notarization or authentication. If Congress approves S. 847, with the prohibition, States would have few methods to detect fraudulent registrations. Increased fraud could result from this statute.

I want to illustrate this point by discussing Public Law 97-205, the Voting Rights Act Amendments of 1982. That law incorporated a new section—section 208—into the Voting Rights Act of 1965. Section 208 states:

> Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice other than the voter's employer or agent of that employer or officer or agent of the voter's union.

The purpose of section 208 is to ensure that those who need assistance to cast their vote receive it. Let me tell you what has happened in my State as a result of this loosely written provision.

A headline in the September 20, 1990, Providence Journal read, "Election Chief Assails Voting Assistance Law." The article begins by citing the chairman of the board of elections:

> Calling it "the most bizarre situation you'll ever see," Joseph R. DiStephano, chairman of the State Board of Election, said yesterday that the State can do nothing to stop candidates and their supporters from going into the voting booths with voters * * * the possibility of mischief is very great.

Rhode Island enacted a law that requires people who request assistance and those who help them to sign affidavits. The purpose of the affidavit is to keep track of who seeks assistance and, more important, who is helping them. Over 500 voters requested assistance in a recent primary in Providence. In Ward 6, 79 out of 109 people who requested help were assisted by a certain candidate's supporters. One voter said that the person who assisted her cast votes in several races she decided not to vote in. That is blatant election fraud.

Requests by States to change this statute have been unsuccessful. If Rhode Island and other States had not taken action to monitor who assists voters, the extent of abuse of this provision might not have been exposed.

My point is that the Federal Government enacted a statute that is being abused. States can take some precautions, but these precautions do not eliminate the "possibility of mischief" or the outcome—election fraud. S. 874, as I previously mentioned, would prevent States from requiring notarization or authentication of mail registration applications. States would be denied the ability to correct and reduce potentially fraudulent situations. This does not make any sense.

I believe we should encourage States to continue their efforts to facilitate voter registration, while allowing them to keep their systems of application verification intact. I cannot support legislation that could lead to increased election fraud and will therefore vote against cloture.

Mr. BAUCUS. Mr. President, for the past 30 years, we have witnessed a dramatic decline in voter participation in America. And like the rest of my colleagues, I support the goal of increasing participation in our democratic system and I applaud the inent of S. 874.

However, I voted against invoking cloutre on S. 874 because I believe that there are certain important provisions of the bill that need further review.

First, I believe that S. 874 fails to adequately address the issue of funding to State and local governments. As many of my colleagues are well aware, the Federal Government is not alone in its budget struggle. Budget dollars are a scarce resource in the statehouses and county courthouses throughout America.

In rural America, we take voting very seriously, and Montana consistently ranks among the top three or four States nationwide in voter turnout. And while the provisions of S. 874 will no doubt increase the numbers of registered voters in Montana, the cost to local government for this marginal improvement will be considerable and in some cases, prohibitive.

If it is the will of this body to mandate a specific method of voter registration to State and local governments, then I believe it is our responsibility to provide adequate funds to ensure proper implementation of the program. S. 874 simply does not provide enough support to State and local governments to do the job right.

Second, I believe that certain provisions of the bill are overly prescriptive and place an undue burden on local election officials. In particular, I believe that local election officials should have some significant latitude in the development of forms and methods to meet motor voter and agency-based registration requirements.

While there are common elements to all voter registration cards, many States and even counties will have different methods of compiling and handling this information. These different methods have been developed by the local jurisdictions because they best fit the needs of their community. We can legislate all we want here in Washington, but the people who will make this program work are the clerks and recorders, secretaries of state and election administrators back home. S. 874 will not successfully achieve its goal of increased voter participation unless we provide local officials with some discretion in the implementation of the program that they will be responsible for administering.

Third, I believe we need to rethink the provisions that prescribe the method for the purging of voter lists. In Montana, and I am sure this is the case in many States, local bond issues are decided by two factors. One factor, like in all elections, is the tally of yes and no votes. The second factor is voter participation. In Montana, bond issues can pass only if 40 percent of the registered voters actually vote on the bond issue.

Under the provisions of S. 874, election administrators would still have the ability to purge their voter lists.

However, the purge process allowed by S. 874 using forwardable mail and prepaid return cards would be time consuming and, in many cases, prohibitively expensive. It is therefore quite likely that many local election administrators might choose to forgo list maintenance in order to save precious resources.

In these instances, the real losers would likely be our school districts, sewer districts, and other public works projects that rely on successful bond elections as a means of funding. Because voter rolls could become artificially inflated over time, voter participation as a percentage of registration would decline, therefore making it significantly more difficult for local governments to attain the 40-percent threshold necessary for the passage of bond issues. For example, as a result of the purge that took place in 1988, the number of registered voters in Lewis and Clark County, Montana, was reduced from 31,248 to 27,443. Using the 40-percent threshold, a successful 1989 county bond issue needed only to be voted on by 10,977 residents. Had the file not been purged, the same bond issue would have needed to be voted on by 12,499 people. This 5-percent margin is often the difference between success and failure for local bond issues.

S. 874 is on the right track. We need to be aggressive in the development of a purge policy that ensures that voters are not removed from the rolls without cause. However, this bill does not provide adequate tools to ensure that voter notification and file purging are performed in a manner that serves the voter while at the same time recognizing the demands on local governments.

For these reasons, I was compelled to vote against invoking cloture on this bill.

Mr. DOLE. Mr. President, you do not need to be an election expert to realize that voter turnout is at an all-time low. In 1988, for example, barely 50 percent of all eligible voters went to the polls—the lowest percentage in more than 40 years. Participation in mid-term elections is even lower, down to about 36 percent in 1986.

Without a doubt, these are disturbing trends. But they are trends that S. 874, the so-called motor voter bill, will do absolutely nothing to reverse.

Unfortunately, low voter turnout has less to do with obstacles to voter registration and more to do with other factors—like the lack of competitive congressional races, the lackluster messages of our Nation's politicians, and the frustration of many citizens who feel that their votes simply do not make a difference on election day.

The motor voter bill will correct none of these problems. It will not make congressional races more competitive. It will not restore voter confidence in the electoral system. It will not guarantee high turnouts on election day.

But it will open the door for rampant fraud. And it will federalize an activity—voter registration—that the individual States have successfully performed for decades.

THE POTENTIAL FOR FRAUD

Mr. President, simply put, S. 874's mail registration procedures are a public invitation for corruption. Just fill out a form, mail it in, and you are registered to vote. It is that simple.

There's no notarization requirement. No attestation requirement. No verification of identity or citizenship.

But there will be lots of fraud. That is guaranteed.

FRAUD AND UNFUNDED MANDATES

S. 874 would also impose significant unfunded costs on the States.

According to estimates prepared by eight States: Alaska, California, Florida, Illinois, Kansas, New Jersey, Oklahoma, and Virginia, the total cost of complying with S. 874's requirements would exceed $80 million. The total cost for all 50 States would obviously be much higher.

Unfortunately, the bill says nothing about how the States should finance the costs of these new, burdensome requirements.

It is voter registration sticker shock: the Federal Government mandates. And the States pick up the tab.

AN ALTERNATIVE

Mr. President, earlier this month, I joined my distinguished colleague from Alaska, Senator TED STEVENS, in introducing an alternative to S. 874, called the Voter Registration Enhancement Act of 1990.

The alternative would authorize a total of $25 million over 3 years in matching block grants as an incentive for States to implement improved voter registration procedures. Like S. 874, these procedures would allow registration at State departments of motor vehicles, registration by mail, and registration at Federal and State government agencies.

But unlike S. 874, the implementation of these procedures would be completely voluntary. The procedures would also remain subject to tough, antifraud provisions already on the books in most States.

In addition, the alternative recognizes that any liberalization of voter registration procedures must be accompanied by tougher penalties for public corruption. As a result, the alternative beef-ups the penalties for such crimes as voter intimidation and ballot falsification.

CONCLUSION

Mr. President, many State governments have now conducted very successful programs to make voter registration easier. In my home State of Kansas, for example, mail registration, accompanied by tough verification requirements, has been in effect since 1976. Other States have since followed Kansas' lead.

With a track record on voter registration, the States now need a helping hand from Washington. They do not need another Federal mandate. And they do not need the iron fist of S. 874.

Mr. President, I have received letters from the National League of Cities, the National Association of Towns and Townships, and the National Association of Counties, all expressing their support for the alternative bill and their opposition to S. 874.

I ask unanimous consent that the full text of the letters be inserted in the RECORD immediately after my remarks.

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

NATIONAL LEAGUE OF CITIES,
Washington, DC, September 25, 1990.

Hon ROBERT DOLE,
Senate Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing on behalf of the public elected officials of the nation's cities and towns in support of your proposed alternative, S. 3021, to establish national voter registration procedures for Presidential and Congressional elections.

While we support efforts to enhance efforts to register more Americans to vote, we oppose federal initiatives which mandate significant new costs for local governments—unless such proposed mandates include reimbursement funds. In our view, both the House-passed legislation and the version reported by the Senate Rules Committee, S. 874, would impose new and unfunded federal mandates on an activity traditionally reserved to elected state and local governments. Both would impose still more pressure on local property taxes to pay for federal goals and objectives.

In contrast, your proposal would offer each state an incentive and would impose substantial penalties to help combat fraud and corruption in federal elections. It would prohibit the federal government from prescribing how a state or municipality would be required to enhance voter registration. Consequently, it would avoid interference in state and municipal authority, but would offer a voluntary means to encourage greater state and local registration efforts.

We believe your efforts are a responsible alternative, consistent with an effort to work in partnership with state and local governments. We appreciate and support your leadership.

Sincerely,

BOB BOLEN,
President.

NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS,
September 26, 1990.

Hon. ROBERT DOLE,
Minority Leader U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: On behalf of the 13,000 mostly small, mostly rural general purpose local governments represented by the National Association of Towns and Townships (NAT&T), I would like to express our strong support for S. 3021, the

"National Voter Registration Enhancement Act."

You and Senator Stevens are to be commended for recognizing the need for an alternative to S. 874, which would impose substantial uncompensated costs upon local governments, which are already struggling to meet existing service obligations. In the United States, 67 percent of general purpose local governments serve populations of less than 2,500. Average annual revenues for governments of this size are less than one million dollars. additional mandated expenditures are difficult for these communities to meet, even in the best of times. Given the economic deterioration of some parts of the country, revenues may not cover current expenses, let alone new programs. As a result, local government financial resources are stretched to the breaking point. S. 874, if adopted, would place a substantial burden upon local governments which may force them to reduce expenditures for other essential services, such as police and fire protection.

Moreover, S. 874 would mandate many voter registration activities which may not, according to a recent study by the Congressional Research Service, accomplish the desired objective of increasing voter turnout. Given the questionable prospects for increased voter participation, we question the wisdom of proceeding with the far reaching programs proposed by S. 874.

Town governments with their centuries-old tradition of town meetings have been the loudest, strongest advocates for full and active public participation in the American political process. We strongly support efforts to increase public participation in our electoral process, but those initiatives must be mindful of the financial and personnel resources of our governments and the legitimate concerns of state and local government officials for the integrity of their own electoral process.

S. 3021 addresses these concern by establishing voluntary program, with financial incentives for local government participation. We hope that all of your colleagues in the Senate will support this worthy alternative. Again, thank you for your leadership on this important local government issue.

Sincerely,

JEFFREY H. SCHIFF,
Executive Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, September 14, 1990.

Hon. BOB DOLE,
Senate Minority Leader, Washington, DC.

DEAR SENATOR DOLE: On behalf of the National Association of Counties (NACo) I want to take this opportunity to offer our support for your bill S. 3021, the National Voter Registration Enhancement Act.

This bill addresses the real problem of providing additional resources to state and local governments which want to make voter registration easier and more accessible to their citizens. Many counties and states have already done so by adopting various procedures, including mail-in, motor-voter, and agency registration, which meet the needs of their populations within the availability of their financial resources. By providing $25 billion over 3 years your bill would make it possible for those county and state governments that would like to do more in voter registration to do so.

As you know, NACo has been very concerned about the unfunded mandates imposed on counties by the federal government. The bill approved by the Rules Committee, S. 874, would require state, county, and other units of local government to absorb the costs of a federally mandated voter registration program. No consideration is given to whether state and local governments are doing a good job in registering people to vote or whether they have the resources to fund such requirements. The truth is that most county governments do an excellent job in voter registration and do not have the extra resources to fund federally mandated voter registration efforts. If S. 874 is adopted it will be another cost for county government to bear. Such federal mandates mean higher taxes and/or reduction of those services which county residents and their elected officials would like to have available.

Your bill also addresses the problem of those officials who would deny or interfere with a person's right to register by creating criminal penalties for such actions. Strict enforcement of this section of S. 3021 will quickly rid our nation of those individuals who would deny someone the right to register to vote.

Once again, thank you for introducing S. 3021 and for your support on this issue.

Sincerely,

JOHN P. THOMAS,
Executive Director.

Mr. SIMPSON. Mr. President, I rise to express my strong opposition to the motion to proceed to consider S. 874, the National Voter Registration Act. There are several real and significant problems with this bill.

This legislation, also called the motor voter bill, is based on a very shaky premise—that low voter turnout is the result of some perceived barriers to voter registration. I am fully convinced that when citizens feel that their vote will have an impact, they will then register and cast their ballots. I believe that the biggest monster roaming out there that causes low registration is called voter apathy. The folks outside the beltway hear about the PAC money and the sewer money pouring in, and in some States, they just simply stay away from polls—in droves.

Instead of targeting the root cause of voter apathy, this bill would create a Federal mandate calling for all sorts of things that sound just dandy in Washington, but would clearly be a real administrative nightmare at home.

As reported by the Senate rules committee, this bill calls for motor voter registration, mail registration, and registration in other Federal and State offices which provide services or benefits. This bill, which would create a bundle of opportunity for fraud, is part of this year's Democrat troika: a campaign finance bill to protect their incumbent advantage through taxpayer financing of elections, a so called Hatch Act reform bill which would allow Federal employees dramatic opportunities to solicit Democrat PAC contributions and twist the arms of their colleagues, and then this bill which would allow those same Government employees who belong to organizations which during the period 1985-1988 contributed 90.2 percent of their PAC money to Democrat candidates—now giving them the opportunity to provide the additional service of being voter registrars. Come on! American people can see through this stuff! It's the added brainchild of "inside the beltway" Democrat party planners.

Fortunately, it is opposed by Democrats and Republicans alike at the State and local level who will have to pick up the tab for this ill-conceived measure. Overlooked by the advocates of this bill are the costs of training all of the additional registrars. Under S. 874, not one Federal dime is authorized for these training costs. I anticipate significant additional costs will be incurred in order to maintain an ongoing training program for new hires, for additional State personnel to supervise compliance with the law, and to increase the salaries of those employees who didn't bargain for Uncle Sam tossing additional registration responsibilities in their lap. At a time when the Federal Government is already asking the States to dig deeper into their thinning wallets, this legislation is just simply not fair.

I received a letter from John P. Thomas, executive director of the National Association of Counties this week. He said: "The truth is that most county governments do an excellent job in voter registration and do not have the extra resources to fund federally mandated voter registration efforts. If S. 874 is adopted it will be another cost for county governments to bear. Such Federal mandates mean higher taxes and/or reduction of those services which county residents and their elected officials would like to have available."

S. 874 is a "bill" in the truest sense of the word. The State and local governments will be forced to pick up the tab for this one. This is another "embrace" of the long and intrusive arms of the Federal Government—one arm meddling in an issue best handled locally and the other arm picking their pockets. And for what purpose? To increase voter registration in a State like Wyoming that in the general election in 1988 had a turnout of over 80 percent? What a puzzling notion.

If there is anything wrong with our voter registration system, it is best left to our State to fix and "fine tune," using their own expertise to improve the system. Mr. President, I ask unanimous consent that a resolution unanimously adopted by Wyoming's secretary of state, Kathy Karpan, who also happens to be a Democrat, and all 23 county clerks in my State, be printed in the RECORD. This resolution makes quite clear the will of those able officials to "allow each State to keep its sovereignty over its voter registration methods and procedures unique to

each States population and geography."

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

RESOLUTION

Whereas, the Honorable Kathy Karpan, Secretary of State of the State of Wyoming is the Chief Elections Officer of the State; and

Whereas, each of the honorable twenty-three (23) County Clerks in the State of Wyoming serve as the Chief Elections Officer in each respective county; and

Whereas, the Secretary of State and the twenty-three (23) County Clerks believe the registration of voters is an issue best addressed by each individual state; and

Whereas, the Secretary of State and the County Clerks have pledged to further promote voter registration and participation in Wyoming; and

Whereas, the State of Wyoming has a history of high voter participation including eighty-two percent (82%) of the registered electors voting in the 1988 General Election; and

Whereas, the Secretary of State and the County Clerk's have serious reservations regarding H.R. 2190, particularly agency-based registration which would allow an employee deciding on public benefits with the power to register; and now, therefore, be it

Resolved, That Wyoming's Secretary of State and its twenty-three (23) County Clerks reject H.R. 2190 and urge the United States House of Representatives to allow each state to keep its sovereignty over its voter registration methods and procedures unique to each state's population and geography.

Mr. SIMPSON. Mr. President, in my opinion legislation authorized by our fine Republican leader, and which I was pleased to cosponsor, would have gone much further toward reducing voter apathy in this country than this ill-conceived bill. We offered an amendment to the campaign finance bill which received 44 votes. It would have banned PAC's, banned sewer money, and reduced the amount of money a candidate could accept from those individuals who do not live in that candidate's State. In short, it would have severely limited the financial clout of special interests in Federal elections—and it is their "heavyweight" pressure and participation which tends to make the average in-State voter feel insignificant, apathetic, and therefore, unregistered.

I do continually support State and local efforts to increase voter registration. Senator STEVENS, and Senator DOLE have introduced S. 3021, the Voter Registration Enhancement Act. I am pleased to be a cosponsor. This bill would provide grants to States to improve voter registration procedures. Unlike the motor voter bill, S. 3021, would be entirely voluntary. To receive these funds, States that want them would have to match "dollar for dollar" any Federal money received. Those States that want to participate may do so. Those States which believe voter registration is best reserved to State and local governments could decline to participate.

The motor voter bill is an unnecessary, obtrusive, intrusive mandate to State and local governments. It would impose significant costs on these governments, and it would greatly increase the potential for vote fraud. I oppose this motion to invoke cloture on the motion to proceed to S. 874.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 874, the voter registration bill, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from California [Mr. WILSON], are necessarily absent.

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

The yeas and nays resulted—yeas 55, nays 42, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—55

Adams	Ford	Mikulski
Akaka	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Graham	Packwood
Boren	Harkin	Pell
Bradley	Hatfield	Pryor
Breaux	Hollings	Reid
Bryan	Inouye	Riegle
Bumpers	Johnston	Robb
Burdick	Kennedy	Rockefeller
Byrd	Kerrey	Sanford
Conrad	Kerry	Sarbanes
Cranston	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dixon	Levin	Wirth
Dodd	Lieberman	
Exon	Metzenbaum	

NAYS—42

Armstrong	Gorton	McCain
Baucus	Gramm	McClure
Bond	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Burns	Heflin	Pressler
Chafee	Heinz	Roth
Coats	Helms	Rudman
Cochran	Humphrey	Simpson
Cohen	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kasten	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Garn	Mack	Warner

NOT VOTING—3

Durenberger	McConnell	Wilson

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

Mr. KENNEDY. 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 Massachusetts.

Mr. KENNEDY. Mr. President, just a short while ago, the Senate rejected the cloture motion that would have permitted the Senate to address one of the really important family issues for low-income and needy families in this country, with the rejection of the cloture motion on title X, known as the family planning legislation. I am extremely disappointed with the outcome. There are millions of low-income women in our country who depend upon these services in order to avoid unintended pregnancies.

No one could visit any community in this country and not understand the extraordinary explosions of teenage pregnancies. In some of our major cities, half of all the babies who are born are born to single mothers. More than 40 percent of all unintended pregnancies end in abortion, and this legislation was focused to help avoid those unintended pregnancies.

We saw the story this past week where the Federal Government will be spending $22 billion on support for teenage pregnancies and welfare costs that are associated with that. I think with the action that has been taken, we certainly turn our backs upon millions of teenagers in this country.

So, I hope, Mr. President, that this body will act more responsibly in the future, when faced with this particular issue. There are too many families, too many needy women in our society, too many troubled young teenagers, for us to turn our backs on them. And we, unfortunately, did so this evening. I hope that the next time that we address this issue, we will have a more constructive and positive attitude.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like the attention, if I might, of the Senator from Massachusetts in connection with this legislation. As he knows, one the major amendments—I think one of the better parts of the bill—was the one we adopted that I proposed yesterday, and that is to overcome the so-called gag rule.

I did not vote for cloture. So the Senator or somebody could charge, well, he is not for the measure. That is not true. But I do believe, in fairness to the Members on this side, frequently have amendments I do not agree with. I certainly did not agree with the amendment of the Senator from Colorado, and I made that clear. But I took a vote so that he could have his amendment brought up.

It seems to me that it is wrong to be invoking cloture before these Senators, who waited for their amendments can have the Senate consider them.

They were the Senator from Oklahoma, and I would suggest probably I would not agree with his amendment—I am not sure what it is—and the Senator from New Hampshire. The Senator from New Hampshire was here patiently trying to get a resolution of his amendment. I just think that, even though frequently we end up in this particular case voting against our best interests, what I believe is the best interests, in the sense of fairness, I do believe that our individuals, our Members have to have a clear vote for their amendments.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have great respect for my friend from Rhode Island. I must say we were down here; we were down here in the morning for 2½ hours. We considered the amendment of the Senator from Rhode Island. The Senator from Rhode Island, with all respect, said he had to leave the body at 10 o'clock in the morning and could not debate it any further.

Mr. CHAFEE. Wait a minute.

Mr. KENNEDY. I have the floor.

Mr. CHAFEE. Do not get the Senator from Rhode Island in this.

Mr. KENNEDY. I am glad to yield.

But before we start talking about who was around here and what consideration we would give, we have the amendments of the Senator from Rhode Island and the Senator from Vermont. And when we were talking back here, they said we have to go to a markup at 10 o'clock in the morning. We cannot consider our particular amendment this morning because of a markup. We will take some more time this evening. We were prepared to deal with it right then and there with other Members who were prepared to deal with it right then.

So I do not think that the Senator from Rhode Island, with all respect, comes to this particular argument with clean hands.

Second, we had agreed with the majority leader to consider four amendments that the Senator from Utah talked to us about last night, to stay in here and vote for them this morning. Two of them were not even printed. How can we ask consent to be able to consider that when two amendments from that side were not even printed?

I have been around and the Senator has been around here. Any time we ask to do business, we normally have the amendments out in front of us before we as floor managers, ask any of our colleagues to go ahead and agree with it.

I had no objection in terms of the consideration. The Senator from New Hampshire arrived here at 11:25 to consider his amendment, when we were debating this matter the other day. We were adjourning at 11:30. I will take the hours we have had in terms of quorum calls. But the idea that, because you do not get a particular vote just at the time that you want, is a new idea in the Senate. It has not been that way in 28 years that I have been here. We have rules.

You offer an amendment; someone can perfect it. That is the way this place has been going for much longer than the Senator from Rhode Island or I have been here. That is the way that we have normally proceeded. I would like to have a dollar for every time I have offered an amendment, and someone has come in with a second-degree amendment. But suddenly, if we do not agree to just offer our particular amendments, and agree to hold out, then we are just not going to be able to do business.

So, Mr. President, with all respect, I have been listening to that argument for a good deal of time, and withheld my view about that in the vain hope, that perhaps by holding it, we might have been able to make further progress in terms of that cloture motion.

But I want to point out very clearly, since the Senator from Rhode Island is in some way, suggesting that we were not going to be accommodating, that on his amendment and the amendment of the Senator from New Hampshire that were offered on it, as the floor manager, I agreed to defer any kind of action and encouraged a unanimous-consent agreement that no further action would be considered, until we were going to it sometime in the evening.

Now, Mr. President, for him to get up here and claim that we are not dealing in a timely manner, I find that is not a fair characterization.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I ask unanimous consent that I may yield to the distinguished Senator from Rhode Island without losing my right to the floor.

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

Mr. CHAFEE. Mr. President, somehow the Senator from Massachusetts equates volume with rationality. The facts of the matter are, I am not complaining about my amendment. I brought it up. The Senator from Massachusetts and I negotiated and indicated there would be opening statements. He never complained one bit. At the appointed hour we were here, we debated it. We got our vote, and I agreed to a time limit. So I do not know how you get me in here——

Mr. KENNEDY. Will the Senator yield?

Mr. CHAFEE. Let me just finish, if I might.

What I am saying is, that the other Senators who were patiently here trying to get their amendments up, should be entitled to them, and the cloture motion is a way of cutting those off. There is no question about that. Because under the germaneness rules, which are incredibly complex, the Senator from Oklahoma, the Senator from New Hampshire, and others—there may not be others, but clearly those two—could not get their amendments up. I do not think that is fair. That is why, in my particular case, I voted against the invoking of cloture.

Mr. HATCH. Mr. President, let me put some oil on the fiery waters here. There were over 35 amendments, as I recall, on this bill. We had three or four of them come up. Last evening, I spent the whole time here, and Senators tried all evening to get their amendments up. Now, there was some sort of an accord at the end of the evening, where they could bring their amendments up.

But there was at one time—at least I thought so—an agreement to not second-degree. I was mistaken on that. I believed that was what we agreed to. That is what I said. But it was not thought to be that by the other side. So we backed off that claim.

The real criticism here, is that by filing the bill, and then simultaneously, with filing the bill, or a short time thereafter, filing a cloture motion, that, by necessity, cuts off the right of Senators to really proceed.

Now, that procedure is a very bad procedure in my opinion. It is becoming a great source of irritation on our side, because we know the minute that happens, unless we somehow or other agree, that debate really is going to be shortened by necessity, or it is going to be cut off.

There are a lot of reasons why Senators voted against cloture on this, some of whom were very strong supporters of the position of the distinguished Senator from Massachusetts. Some were concerned because they are sick and tried of dealing with these issues that we know are going to be taken care of anyway, when we cannot seem to get both sides together on the budget.

I know that President Bush is frustrated. He submitted his budget a long time ago, and he cannot get people to sit down and do something anything about it. One of our Senators the other day—I think it was Senator McCain—said, well, it is interesting President Bush can negotiate with Gorbachev and get along very well, but he cannot get along with the Democrats. I do not think that is President Bush's fault.

The fact of the matter is, there is plenty of reason to be irritated on this side. There were plenty of misunderstandings. But the equally important fact of the matter is, that title X has been funded every year since 1983

without an authorization bill. And it is going to be funded, whether we have this bill or not, this next year. Nobody is going to be denied those funds.

I might add, that poor women are not going to suffer because of the cloture vote today. We are going to see the family planning funds are there. President Bush is for family planing, vociferously so. And, frankly, the problem here was the other side; they wanted this bill in this way, regardless.

Now I have to confess, this bill, facing the fate that it has, is a serious thing because there were things in that bill I wanted, and I would have been very happy with. And I thank my colleague from Massachusetts for putting them in there. It was in good faith that he did so, and I respect him for it. We have worked very well together through this last number of years and I think we have done some very important work in the Senate. When we fight each other, we fight hard and we respect each other. Certainly I respect him as much as anybody in this body, and he knows it.

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

Mr. HATCH. I am glad to yield.

Mr. DOMENICI. I might say to my good friend from Utah, I was here because I was going to make a point of funding. But I must ask, just to make the point, if the Senator is aware in the Appropriations bill next year, the one that is in Labor-HEW, that title X is up 10 percent, $13 million added to it last year.

Mr. HATCH. That is right. And nobody is going to lose anything because this bill in its present form did not get cloture.

Now, the statement that poor women are going to be without and there is going to be this calamity that is going to occur is just not quite there.

There were things in this bill that I would liked to have had. There were things that I thought were terrible about it. I happen to know that the House just reauthorized a straight reauthorization of family planning over there and a straight reauthorization as far as I can understand it of the adolescent family life bill which I think is critical to go with family planning.

I just give my commitment here today that I am for family planning. We are going to see that those funds are there. I am very pleased that the distinguished ranking member on the Budget Committee has brought to our attention that those funds will be increased by 10 percent. They will be there regardless of whether we reauthorize the bill or not, as they have been since 1983, and not one person is going to be without.

Now, the issue of abortion, it is always a volatile issue. I am sorry that that is such a volatile issue. But it is the type of issue that really deserves to be volatile because there are sincerely dedicated, decent people on both sides of that issue who take very strong positions about it.

I happen to be on one side of that issue that is opposite of the side of the distinguished Senator from Massachusetts. I have to admit it always causes us a lot of problems.

The important thing is, do not present this as a loss of the funds, because it is not. And poor women are going to be helped and all those who deserve to be helped will be helped. The family funds will be there, and the President is going to see that those funds are there. We are going to see that those funds are there.

The distinction is that this is an authorization bill and it in some ways did not please enough people. It is up to us, as the chairman, in the case of my friend from Massachusetts, and myself, as ranking minority member, to create those bills so that the maximum number of people will support them and so that we will have less controversy and promote the programs in a better way than we have in the past.

I would like to see that we do that, and I want to personally compliment my friend from Massachusetts for the strong way that he has carried his side on this floor. There is nobody that has the total ability that he does in the legislative process, in my opinion. He is one of the all-time great Senators. There is no question about that either. We happen to differ on some of these things, and I think that is probably healthy in this country, that we can differ.

I want to compliment the Senator, because it has been a privilege to work with him, and regardless of how this turns out I look forward to working with him on a whole wide variety of provisions in the future.

We just passed a raft of bills out of the Labor Committee today. Here we are in the last days of the session, and the Senator is working so hard; he is putting on bills today. We have been on this floor virtually continuously since this Congress started with labor bills because of the tremendous ability of the distinguished Senator from Massachusetts.

I would like to end this thing, and just say I compliment Senator KENNEDY and feel very deeply about him; feel deeply about the issue itself. I will work with him to help resolve these issues, and I hope we can get some of these volatile parts out so we can proceed and do what is best for our country and best for the people, and especially the poor people out there who need this kind of help.

I think it is also important for us to work with the President on these matters. There is no question this bill would have been vetoed. In fact, some people were crass enough to suggest—and I know this is a terrible thing—that the purpose of bringing this up on this late date was just so he would have to veto it and look like he is not for family planning. I know this could not possibly be so. Nobody could be that crass in politics.

But the fact of the matter is that the President does not have to veto it now, and we have acted. The funds will be there. The President will see they are there. I am going to see they are there. I know, above all, the distinguished Senator from Massachusetts is going to see they are there, because he has always fought for them and he deserves credit for having them there to begin with.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just on the latter part, I point out we had in excess of 12 Republican cosponsors, so that is difficult for me to believe. I would like to believe that those Republicans who did cosponsor were doing it out of a matter of conviction. They were certainly not a part of trying to embarrass the President.

Let me end this, Mr. President. I want to point out the two Republican amendments—one dealt with savings and loan and the other pay for Members of Congress—took 3 hours. They were completely unrelated to this legislation—3 hours. And those were two Republican amendments. They had virtually nothing to do with this legislation.

I indicated support for the Pressler amendment. I would have supported the Bond-Dodd proposal on it. But they just were not relevant. Yet we spent 3 hours on them.

I would have hoped if there was this great concern among our Republican colleagues, there could have been enough opportunity, they could have used that particular time to try to address some of the other kinds of concerns that seem to be paramount.

Finally, Mr. President, there are those, and they certainly do not include my friend and colleague from Utah, Senator HATCH—but there are those who are strongly opposed to any family planning programs. They are not above trying to bring the whole abortion debate into the consideration of this measure.

As has been pointed out in the debate, written in the legislation there is not a nickel in this program that could be used for abortion. But there are those who would somehow want to bring that kind of issue into this particular legislation.

There may very well be appropriate times to be debating that issue here in the U.S. Senate, but it was not in this particular bill. President Bush was a cosponsor of this legislation years and years ago. So it would be completely inconsistent to think that he was a co-

sponsor at that time, if it did have the implications that have been suggested by those who offered a number of amendments dealing with abortion. "It just ain't so."

Finally, let me say with regard to the points raised by the Senator from Utah, this is going to continue to be funded. I do not want to redebate this legislation. But if we go through what has been actually appropriated, there has been a 42-percent reduction in real dollars since 1980—42 percent real reduction.

The Senator has been around here long enough to know that the appropriators look at the legislation. They are going to look at what was the response of the Senate this evening. They are going to have scarce resources, and I think they are going to act accordingly. So I am not nearly as sanguine about what is going to happen with this program as is my friend and colleague, the Senator from Utah.

Finally, there are important gaps in the existing program, as has been pointed out by the Senator from Rhode Island [Mr. CHAFEE]. There were important adoption referral services that were included in this and other strengthening programs in terms of reproductive research, and also in terms of outreach programs, which really resulted from a very careful evaluation. All of those measures have been lost.

Nonetheless, I have stated my position, Mr. President. I thank the Senator from Utah very much for his kind remarks. We did have a fruitful day in our Labor Committee earlier today, and we worked together on a number of extremely important pieces of legislation which hopefully will pass this body unanimously with our very strong support.

So, as always, I am grateful for his remarks and his friendship, and the opportunity to work on legislation with him.

Mr. COATS. Mr. President, while I support the underlying principles of title X, to provide comprehensive voluntary family planning and basic health services to low-income women, I have serious concerns about the legislation before us and rise today to express my opposition to S. 110, the Family Planning Amendments of 1989.

The title X program has been the subject of great discussion over its 19 year history. That controversy, if anything, has heightened over the years, as increasing scrutiny has been placed on the program, and on the activities of program grantees resulting in failure to secure a separate reauthorization of title X since 1985.

The history of title X suggests that this program has been administered in a manner not consistent with original congressional intent—and to support the 4-year reauthorization of title X before us would be to perpetuate our error. This bill does not adequately address problems which beg for redress before they are permanently incorporated into the law.

My concerns, relating to both the program and its reauthorization center around three areas—continued promotion of abortion and abortion-related activities, continued promotion of abortifacient research, and the promotion and financial support of school-based birth control clinics.

The original intent of Congress was clear—to fund the availability of preventative family planning services. Section 1008 of the title X statute states: "none of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

The statute is not merely neutral on the issue of abortion, as some would have us believe—it is in fact hostile to any involvement—be it with Federal funds or not—in the performance, counseling, or referral for abortion. Section 1008 was intended to establish a wall of separation between pregnancy prevention and pregnancy termination. The separation of abortion activities from pregnancy prevention activities could not be put any more simply: title X family planning programs may not in any way include abortion.

Despite the statutory restriction found in section 1008, the Chafee amendment adopted yesterday actually requires abortion referral and nondirective abortion counseling as part of options counseling. This requirement stands in striking contrast to section 1008, and it effectively prevents organizations intent on observing the wall of separation between abortion and family planning from receiving title X money. This taints legitimate family planning methods, and erodes public confidence in the Nation's Family Planning Program.

Mr. President, another concern related to this issue is the potential use of title X funds to research and promote the development of abortion inducing drugs. Section 6 of S. 110 authorizes an additional $10 million in grants to public and nonprofit private entities in order to "enhance the work of the National Institutes of Health * * * in applied contraceptive research and evaluation, and specifically to promote the development, marketing, and evaluation of new and improved contraceptive devices, drugs, and methods. * * *"

A careful reading of section 6 will reveal it may authorize funding for research which is technically prohibited by section 1008 of title X. As I have noted, section 1008 clearly prohibits activities which would promote abortion, including the early abortions that are the object of some reproductive research.

RU-486 is not simply a contraceptive, and research into its modes of operation is not simply the promotion of contraception. This drug does not discriminate between a womb with an unborn child and an empty uterus. It can and does induce abortion.

Finally, section 7 of S. 110 provides for the authorization of "community-based informational and educational programs," to provide information about "a broad range of acceptable and effective planning methods and services." Under this authorization, funding could be provided for school-based birth control clinics.

Currently, school-based birth control clinics remain under State and local control. State legislatures and local school boards can place specific constraints on activities conducted within these clinics—for example, by prohibiting the dispensation of prescription contraceptives without parental consent or involvement. Under S. 110, school-based clinics would be under Federal, not local control. Therefore the school boards and local communities would no longer have the flexibility or authority to address these legitimate local concerns—and I think that is a grave mistake, especially given the controversial aspects of school-based clinics.

Eunice Kennedy Shriver, executive vice-president of the Joseph P. Kennedy, Jr., Foundation, rejected contraception, as do I, as the "first, best, or only solution to the problem of teen pregnancy." To distribute contraceptives in school settings is to give a strong message that premarital sex in adolescence is acceptable and may further perpetuate the problem of teen pregnancy.

S. 110 does not attempt to remedy any of the concerns I have mentioned. In fact, it exacerbates those. As I stated at the outset, I am generally supportive of the original goal of title X—and for that reason introduced S. 1671, the administration's substitute to S. 110. This legislation is, in my estimation, our best attempt to continue funding for legitimate pregnancy prevention activities while giving States increased flexibility to design State and local programs that best reflect community needs and desires and make the most effective use of limited Federal funds.

I urge my colleagues to vote against cloture and against final passage of S. 110.

Mr. SIMPSON. Mr. President, I think it is so very important to clarify the point that nothing dire is going to happen to the disadvantaged or to children or to persons who are powerless as a result of this vote. That is not going to happen here. This is just one of those situations that comes in a legislative body. It is called "process."

Mr. President, some of my Republican colleagues have just cast some very tough, difficult, very courageous votes on these two cloture motions. And they will really get donged about the head and shoulders for it when they go home in a couple of weeks—make no mistake about it! That is if the lynch mobs are not lurking in their offices even now.

Some of our colleagues who cast these tough votes were themselves cosponsors of the bills in question, even architects.

Now, why would they do a thing like that—vote against cloture on a measure they had worked on, studied, and crafted with extreme care and insight?

I am here to tell you why they would do that, Mr. President.

It is called process, protecting the process, defending the integrity of the process and of this great Senate that we love so well.

You see, my colleagues and I, some of us, obviously a great majority of our group, tire of the tactics adopted of late to force votes on some very highly political issues, to embarrass the President, or to deny the opportunity for debate on meaningful substantive amendments by Members of the minority party, and to divert the attention of the Senate from the most pressing issue ever upon us, and that is the budget deficit.

We are diddling while Rome burns, and fiddling, all at the same time. That is the business at hand, the budget deficit. So what we saw here in these two votes was a reaction to tactics that we have believed to be irresponsible, unfair, and unbecoming.

We had an agreement last week concerning the manner in which amendments to the title X bill would be handled, but last night Senator PRESSLER was heavily pressured not to offer his amendment. The majority also worked over Senator NICKLES.

The Senator from New Hampshire was, after a full day of bright promises, ultimately denied the opportunity to offer his special counsel amendment last night, and the majority went ballistic over the amendment of the Senator from Colorado.

And all to what purpose? These amendments could have been considered and voted on—as is our duty and custom to do—in a matter of minutes. Why were they denied?

The majority has taken to a pattern now of making premature cloture calls to effectively shut off debate on a huge variety of issues for the express purpose of creating political discomfort for Republicans. That is not our business here. Yes, sure, elections are near. Tempers are hot and patience is short. That all makes for high drama. But not for good legislation, or good policy, or good government. I think it is time to put a stop to it, as we always must in the waning hours of a session. And we just did.

For the record, I found it very difficult to vote against cloture on title X. Nowhere is the need for that program better illustrated than in my own State of Wyoming. We have the third highest teenage pregnancy rate in the Nation. We have the seventh highest rate of live births to adolescents.

We have an extremely high rate of teenage and poor women at risk for unintended pregnancy. Sexually transmitted disease rates are soaring, yet we have just 14 family planning sites in the State and 3 of those are in danger of closing. It is a very valuable program out there, where oftentimes young and frightened or uninformed women have literally nowhere else to turn for services, for health care, or for help. I support the program fully. And I always have.

My position on abortion is one of the woman's right to choose. Certainly these issues, abortion issues, counseling issues, are very vital and important as options for anyone in that extremity.

So let me state very clearly for the record that family planning funding is not in jeopardy in any way and it will continue just as it has for the past 5 years through the regular appropriations process.

My colleagues know my position, as I have said, on these issues. So do the people back home. I would hope they will understand why this most difficult vote was necessary at this particular time. It was cast by many of us and by those of us in the leadership as an objection to a breach of process.

I think my friend and colleague, JIM MCCLURE, who will not be here next year—who has chosen to retire—put it best moments ago. He said, and I paraphrase, "I will not be here next year, and according to the rules, I can't lobby you next year. So I'll lobby you now. React. When cloture is invoked as soon as a bill is brought to the floor and you have had time to fully debate and perfect it to your satisfaction, you must react. That is your duty. That is the item of faith people have placed in you—to govern according to the principles of good government. To deny yourselves the opportunity and the capacity to debate and discuss the issues of the day as they come before you is to fundamentally change the nature of the U.S. Senate," something akin to that.

No one could have said it better.

And that, Mr. President, is why my colleagues cast those extraordinarily difficult and painful votes. Because good government demands a protest here and now, before this nonsense goes any further—before it takes us over the edge in this Chamber.

It is now time to get on with something—we all know what we have to do—and that is what the tough medicine on the budget of the United States, with the anguish of the appropriations process. There is not one of us in this Chamber now who does not know we are going to do some things with Social Security and cost-of-living allowances or taxation on benefits of people who do have substantial worth, et cetera. We will deal with those things, with the entitlement programs and with Medicare, which is all out of whack. That is what we are going to do. We do not like that, but that is where our present attention needs to be. It does not need to be on extraneous material at this critical time. And yet the Labor and Human Resources Committee cranked out 10 new bills today. That is astounding. And absurd. And we are not going to deal with them because it is the end of the session.

So here we are. We have much work to do. It is called bailing the United States out of a situation that we put them in. They helped, certainly, because they asked us for the funds and the programs and the exemptions here and there. It is a representative government and they ask us continually for more, more, more, more, more. We respond because we like to get reelected. We are very good at that. But in these times, there just really is an element of "throw the bums out because they know what they have to do yet they are not responding!"

I close with a remarkable little alliteration: What is a billion? It is this: A billion seconds ago Don Larsen, in October, was spinning a perfect game in the World Series. A billion minutes ago Hannibal and his elephants were crossing the Alps. And a billion hours ago, the Earth was a solid block of rock and ice in a blackened sky. And a billion bucks is what your country spent on health care since 9 a.m. this morning. That is what a billion is. We spend 600 billion bucks a year on health care. We spend billions and billions and billions of bucks on people who should not be in the system, but they are called constituents, too. That is our job. And that is how we got in this mess.

We are, finally, I think, making some movement toward the entitlements programs. You just cannot mess around with little things like excise tax, little things and this. You go to the root, and the root, I say to my colleagues, is the entitlements programs. It is going to be bitterroot, but we are going to get it done, and that is what we should be about, not trying to pretend we tried to take care of title X, something I believe in and all the measures of it. I supported the Chafee amendment yesterday. Here we are. Let us get on with it, Mr. President. We have work to do and an awful, awful lot of it.

I thank the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from California.

DISMAY WITH VOTE ON VOTER REGISTRATION

Mr. CRANSTON. Mr. President, I rise to express my disappointment and dismay at the vote taken a wee bit ago on a matter related to a bill designed to make it easier for people to register and, therefore, easier for people to vote in our country. The Republican minority voted unanimously against the Senate even considering that measure. I am deeply shocked by that. We live in a time when we are hailing the advances toward democracy and political participation in Central Europe, in the Soviet Union, and elsewhere. And yet here at home, we are denied the right to deal in this body, by the Republican minority, with a measure designed to make it easier for people to get into the electoral process. This has been a crusade that I have been deeply involved in for many, many years: The effort to get more people involved in registering and then voting in our society.

The historical background is quite interesting. In the first 100 years of the existence of our Republic, more and more people were voting steadily in election after election. It started right after our country was born with only about 3 percent of the people participating in the first election. Women were not allowed to vote. Individuals without substantial property holdings were not allowed to vote. So only about 3 percent voted in the very first elections for Congress and the President.

But voting increased each year and it went up steadily as the franchise was opened up, until 1876, oddly enough, the exact anniversary of the Declaration of Independence. Then a corner was turned and voting started going down. It has been going down very steadily in election after election from the high point of something like 83 percent of the people participating in the elections in 1876, down, in the most recent elections, to where less than half the people in Presidential years who could vote have voted and far less than that in the off years when only Senate and House Members are running, down, as we know, in some communities, small towns and large cities in our country where 5 and 10 percent of the people bother to vote in the elections.

The reason there was a downturn right after 1876 is very clear. The Civil War was over. Blacks had been given the right to vote. Women were clamoring for the right to vote. Those who were privileged at that time, and who had the vote, did not want these changes to occur. So they wrote three laws that made it very difficult for people to vote, poor people, those who had been disenfranchised.

One was the poll tax; the second was literacy tests; the third was registration laws, which we did not have until that time. These worked like magic. Down went participation steadily from that time forward.

We repealed the poll tax, we eliminated literacy tests in the civil rights struggles in the 1960's, but registration remains. Registration was created as a barrier against voter participation. It is a barrier against voter participation. In some communities in our country it has been deliberately made very hard for people to register. Places where many people go to register are far away. Hours are limited. People find it very hard to register, particularly working people who cannot get away during working hours. The consequence is less and less people voting.

There may be other reasons; I am sure there are; cynicism about the process of politics and Government, a feeling that "my vote does not count" on the part of some people, a feeling that things are out of control. But registration clearly is one of the reasons why people are not voting.

Poll after poll has revealed that people have stated, "I would have voted but I could not register," or "I forgot to register," or, "I moved and did not get reregistered in time," or, "I did not think about it until registration was closed," which happens in most of our States at least a month before elections are held.

After extensive hearings on all of this in the Rules Committee, led by Chairman WENDELL FORD, who has provided great and effective leadership on this issue, a bill, which reported out of committee and brought to the Senate floor, was designed to deal with this problem. It provided for what is called motor voting. When you go to get a driver's license, you would be given an opportunity to register.

Ninety percent of the potential voters in our country have a driver's license, so this would be a very easy way for them to get registered, if they chose.

For those who do not have a driver's license, the bill provided that at Government agencies, where people often go for one reason or another, they would be offered an opportunity to register. That would get the other 10 percent; a magnificent way to make it easier for people to participate in our democracy, and that would strengthen our democracy, when we now have a situation where so many people are not voting, particularly members of minorities, particularly poor people, and particularly young people.

In the last Presidential election, 84 percent of Americans 18 to 24 years of age who could have voted did not vote, and most of them were not registered. That bodes ill for the future of our democracy. There is a real danger in a democracy when people are not participating in the processes of that democracy, which means registering and voting. Most of all it means, of course, voting.

If people are not voting, and they do not like the way things are going and they want change, they may turn to means other than the electoral process to achieve that change, as we have seen in country after country.

So we have sought to expand the franchise by this measure. We have been denied the right to even debate it, to perfect it and improve it and consider amendments in the Senate. That I think is a body blow at the future of our democracy.

Why did the minority Members of this body, the Republicans, take this attitude? Are they afraid of the voice of the people? Are they afraid of the way the disenfranchised would vote if they were involved in the process? I think those are questions that Republicans in this body should be compelled to answer to the public and within this institution.

There will be further efforts in the future to get this measure before the Senate and enacted. Unfortunately, if the Republicans stand totally united unanimously against any such effort, we may have to wait until the day when we have 60 Democrats in this body.

I look forward to further efforts to move us toward a purer form, a greater form, a more opportunity-filled form of democracy in our country.

Mr. President, I want to correct one statement I just made. There were two Republicans who had the courage and the wisdom to vote for cloture on the registration bill. Unfortunately, that was canceled out by two Democrats who voted the other way. But otherwise, every single Democrat in this body voted for cloture so we could deal with the registration law, and every other Republican, including the leadership on that side of the aisle, voted against the effort to open up the franchise to more people of our country.

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

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

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

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

A TRIBUTE—HUGH SCOTT

Mr. SPECTER. Mr. President, on November 11, 1990, Hugh Scott, a truly distinguished former Member of this body, will celebrate his 90th birthday. To mark this auspicious occasion, a reception will be held in S-120 of the Capitol, the room named in Senator Scott's honor, at 11 a.m. on October 2, 1990, at which current Members of the U.S. Senate will fete their former colleague from Pennsylvania.

Senator Scott's service to his Nation and his State include 34 years in the U.S. Congress, 16 years in the House and 18 in the Senate. From 1969 until his retirement in 1977, he served as Senate minority leader. A soft-spoken, courtly gentleman, Senator Scott was not only liked but revered by his fellow Senators for his gently persuasive but, nonetheless, effective manner of argument and speech.

Born and educated in Virginia, Senator Scott graduated from Randolph-Macon College and the University of Virginia Law School. He began the practice of law in Philadelphia, PA, and served as an assistant district attorney there from 1926-41. During World War II, he served on active duty with the U.S. Navy and attained the rank of commander.

Senator Scott was first elected to the U.S. House of Representatives in the 77th Congress. In 1958, he was elected to the U.S. Senate and again in 1964 and 1970. He retired from the Senate at the conclusion of his third term in January 1977.

Senator Scott, who possesses the manners of a southern gentleman and the astuteness of a Philadelphia lawyer, has been something of a renaissance man. Not only a successful lawmaker and politician, who has brought honor to both occupations, he is the author of many books on the law, on the art of politics and on Chinese art. Included among his published works are: "Scott on Bailments"; "How To Go Into Politics"; "The Golden Age of Chinese Art: The Lively T'ang Dynasty"; "Come To The Party"; "How To Run For Public Office And Win"; and "Politics, USA."

Senator Scott's service on national, international, cultural, and educational boards and commissions is to numerous to begin to try to mention. Suffice it to say that it is next to impossible to comprehend where he found the time to serve so many organizations so ably and so well.

In Senator Scott, then, we have a multifaceted man of many talents, abilities, and capacities. But his greatest ability, I believe, is in extending and bestowing friendship. As a young lawyer in Philadelphia and as a candidate for public office, I have on many occasions turned to him for counsel and friendship. Unfailingly, he has responded with warmth, humor, candor, and extremely good advice. Like many others in this regard, I am deeply in his debt. And, again, like many others, I hold him in the highest esteem.

As Senator Hugh D. Scott prepares to enter his 10th decade, I call on all Members of this body, and, indeed, all Americans, to thank him for a dedicated life of public service and to wish him well.

IMMIGRANTS INCREASE GROWTH AND EMPLOYMENT OPPORTUNITIES

Mr. SYMMS. Mr. President, some of the most famous words in American history are those of Emma Lazarus, engraved on the Statute of Liberty: "Give me your tired, your poor, your huddled masses yearning to breathe free."

As a matter of economic fact, however, America today does not receive immigrants who are tired and poor. They are certainly yearning to breathe free, but immigrants to the United States are among the most energetic workers, and are possibly the most entrepreneurial people from their native lands.

Immigrants to the United States, Mr. President, are a positive contribution to our economic growth. They stimulate our economic growth.

I will ask unanimous consent to have reprinted in the RECORD following my remarks a study done at my request for the use of Republican members of the Joint Economic Committee, on which I am proud to serve, by Profs. Richard Vedder and Lowell Gallaway of Ohio University, and Stephen Moore of the Alexis de Tocqueville Institution.

Two of the embedded fallacies about immigration is that foreign born workers come to our shores and take jobs away from native born Americans. This fear of umemployment is unfounded, Mr. President. This economic study proves that unemployment is not related in any way to increased immigration. Indeed the study shows the opposite effect.

The other economic fallacy about immigration is that the ratio of labor to capital is adversely affected, because immigrants add their labor to our economic system. It is clear, however, from this economic study that the capital/labor ratio is improved, not retarded by immigration. Partly this positive effect is due to the greater savings rate of immigrants, but more importantly the kind of person who comes to America is an "opportunity seeker," and that is the kind of person who creates economic growth. Opportunity seekers stimulate capital formation—they are able to see more opportunities and they are able to stimulate others also.

Mr. President, I am very pleased to have been able to work with the Republican staff of the Joint Economic Committee to make this economic study possible. I believe it will have a positive impact on the current debate about increasing our immigration quotas.

I ask unanimous consent that the material to which I referred be printed in the RECORD.

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

DO IMMIGRANTS INCREASE UNEMPLOYMENT OR REDUCE ECONOMIC GROWTH? EVIDENCE OVER TIME AND ACROSS STATES

(By Richard Vedder, Lowell Gallaway, and Stephen Moore)

SUMMARY

Almost from the beginning of the American immigrant experience, opponents of immigration have charged that the foreign born cause increased unemployment of U.S. workers. This fear of job competition from immigrants continues to strike a receptive chord with many Americans and is one of the primary justifications for maintaining strict restrictions on immgration.

A related economic objection to immigration is the charge that immigrants are harmful to the economy generally. Immigrants are said to depress real wages, reduce the capital-labor ratio, and ultimately contribute to slower per capita economic growth.

The purpose of this study is to present the findings of new research which assesses the validity of these economic arguments against increased immigration. The study examines the statistical relationship between rates of immigration and subsequent unemployment rates and subsequent per capita economic growth. If immigrants are economic burdens, then, all other things equal, we should be able to detect higher subsequent unemployment and slower growth in periods or areas with heavy immigration than in periods or areas with low immigration.

We employ two models to determine whether this is the case. The first model examines the impact that the presence of immigrants each year in the U.S. has had on the annual national unemployment rate and economic growth over a very long time period: 1890-1988. This model allows us to capture the effect of immigration in periods of high influx of immigrants, such as at the turn of the century, and periods of low immigration, such as in the 1930s.

The second model investigates whether states with high percentages of immigrants in their population in 1980 had higher or lower subsequent unemployment and economic growth rates between 1982 and 1985 than states with low percentages of immigrants in their population. This model allows us to examine exclusively the impact of the "new immigrants" on the job market and economic performance.

The principal findings of the study are:

(1) In both models we reject outright the hypothesis that increased immigration leads to higher unemployment. We find a consistent statistically significant negative effect of immigration on subsequent unemployment. That is, periods of heavy immigration tended to be followed by periods of lower than normal unemployment; states with heavy concentrations of immigration in 1980 had lower unemployment between 1982 and 1985 than low-immigration states. We estimate from our statistical analysis that an increase in immigration of 300,000 per

year for ten years, which is roughly an upper bound estimate of immigration increases now under consideration by the U.S. Congress, would lead to roughly a 0.10 percentage point reduction in the national unemployment rate by the end of the decade than otherwise.

(2) We reject the hypothesis that increased immigration reduces per capita economic growth. Immigration is found in most of our specifications to have a statistically significant positive effect on the subsequent capital-labor ratio (a primary engine of growth) and on the labor force participation rate. This relationship is demonstrated to hold both over long periods of time and across states.

THE IMMIGRATION-UNEMPLOYMENT RELATIONSHIP

The case that immigration causes increased unemployment is based on the premise that immigrants are substitutes for American workers in production and that the availability of jobs is relatively fixed, at least in the short term.

The contrary argument is that immigrants may contribute to the job creation process in several ways.[1] First, immigrants may expand the demand for goods and services through their consumption. Second, immigrants may contribute to output through the investment of savings they bring with them. Third, immigrants have high rates of entrepreneurship which may lead to the creation of new jobs for U.S. workers.[2] Fourth, immigrants may fill vital niches in the low and high skilled ends of the labor market, thus creating subsidiary job opportunities for Americans. Fifth, immigrants may contribute to economies of scale in production and the growth of markets. The combined effect is that immigration may actually lead to a decline in unemployment.

Pure economic theory would predict that in competitive labor markets with full information about job opportunities and negligible costs of job search, the wage level should adjust to accommodate any number of new arrivals, thus preventing a rise in unemployment. Yet labor economists point out that the U.S. labor market is far from perfectly competitive, wages do not respond instantly to changes in the labor force, job information is imperfect, and search costs are consequential. As such, the theoretical prediction that immigration should not adversely effect unemployment rates may be invalid.

Fortunately, the question can be put to empirical investigation.[3] We adopt several new approaches to test the hypothesis that "immigration causes unemployment."

We start with a model that attempts to explain the annual level of the national U.S. unemployment rate from 1890 to 1988 with three standard annual labor market variables (each of which explains deviations in unemployment) and an annual immigration variable. We measure immigration as the percentage of the American population that is foreign born in each year.[4] Our three labor market variables are (1) wages, (2) the Consumer Price Index, or prices, and (3) output per hour worked, or productivity. The model explains 75 percent of the variation in unemployment over this time period.

Our principal result (reported in the Appendix) shows a statistically significant negative relationship between unemployment and the presence of immigrants, holding constant the three labor market variables. Years of substantial immigrant presence, other factors held constant, do not correspond to years of high unemployment. The hypothesis that "immigrants cause unemployment" is rejected.

It could be argued that this finding is a statistical artifact of the data. For example, some studies[5] have found that immigration tends to be affected by the pull factor—i.e. rates of immigration are high when unemployment is low, and vice-versa. This would mean that our model could be partially picking up the effect of economic conditions causing the immigration and not the other way around.[6] Furthermore, the years of high immigrant presence in the early part of the century may also have been years when the "natural rate of unemployment" was lower than today for reasons other than unemployment. To cite just one example, the years of very high unemployment were also years in which there was no federal unemployment insurance program, a development that, on balance, has probably raised unemployment by reducing the cost of remaining unemployed.[7]

To control for the potential reverse causality problem, we next examined only the later periods 1925-88 and 1953-86. After 1924 the U.S. "open door" immigration policy was ended. Thereafter, the size of the annual immigration flows was less influenced by the "pull" of domestic economic conditions and more influenced by the ceilings set by Congress. Especially after 1953, when the McCarren-Walters Act was passed, immigration has always bumped up against the ceiling set by Congress and has not been permitted to fluctuate naturally with economic conditions and unemployment. In both of these additional statistical tests the relationship between foreign born as a percentage of population and unemployment was positive, not negative, confirming our earlier result.

When we added other variables to the analysis, such as a measurement of public assistance payments, the results were unchanged, suggesting that our results are fairly robust. In all, eight specifications of the model were tested; in none did we find any support for the hypothesis "immigration causes unemployment."[8]

We next developed a second unemployment model using an approach that examined immigration across states in a recent year, 1980, rather than immigration over time. Specifically, we tried to explain variations in the rate of unemployment in the 48 contiguous states for four years, 1982, 1983, 1984, and 1985.[9] We hypothesize that unemployment rates for these years in the states is a function of (1) unionization in the state, (2) the age composition of the populatin in the state, (3) the political temperament of the citizenry, (4) the percentage of the labor force employed, and most importantly (5) the percent of the state's population that was foreign born in 1980 as determined by the Census. The model is again a good predictor, explaining 83 percent of the variance in unemployment among the states in the 1982-85 period.

With this model we not only reject the hypothesis that immigration causes unemployment, but confirm at a 99 percent level of confidence the opposite conclusion: "immigration lowers unemployment." The model suggests that each one percent increase in the percentage of foreign born as a proportion of the state's total population is associated with a .08 percent reduction in the unemployment rate. This means, for example, that if the percentage of the foreign born population climbed from 8 to 10 percent, the model predicts that the state's unemployment rate would fall by 0.16 points (e.g., from 5.50 to 5.34).[10]

Relating this to the national unemployment picture, if the foreign born population were raised by 300,000 per year for the next decade, as is now under discussion in the U.S. Congress, our model predicts that unemployment at the end of the decade would be roughly 0.10 percentage points lower, assuming current labor force levels. This would suggest an obvious economic windfall from a more liberal immigration policy.

THE EFFECT OF IMMIGRATION ON PER CAPITA ECONOMIC GROWTH

The second part of our study investigates the impact of immigration on various levels of economic growth. In the simplest terms, economic growth is influenced by two factors: increases in the factors of production (such as capital and labor), and technological improvements that enhance the efficiency with which the inputs are used. We focus our analysis on the effect of immigration on the aggregate quantities of the inputs that are available.

What impact does immigration have on the amount of capital available to workers, or the capital/labor ratio? The capital-labor ratio is a critical determinant of per capita income growth, or increases in the standard of living. Theoretical arguments could be made both ways: that immigration reduces or increases the capital-labor ratio.[11]

We therefore once again test the linkage empirically. In this instance, we compare annual movements in the capital-labor ratio, defined as the ratio of fixed reproducible tangible wealth (less consumer durables) to employed members of the civilian labor force, with (1) the annual proportion of the population that is foreign born over the period 1926-87, and (2) a measure for the passage of time to capture the intertemporal tendency for the capital-labor ratio to rise because of capital formation. (See the Appendix for details.) We find that the capital-labor ratio is positively associated in a statistically significant sense, with the proportion of the population that is foreign born. The model explains 90 percent of the variation in the capital-labor ratio.

This result suggests that immigrants have a positive impact on labor productivity, real output per capita, and economic growth through the capital formation process. One explanation for this result might be that immigrants contribute to capital formation through their high rates of saving.[12] We caution, however, that additional analyses, using alternative economic models and/or time periods, produce weaker positive, and in one case, contradictory results. We do not claim, therefore, that immigration increases economic growth through the capital formation mechanism. Nonetheless, we do believe that the data indicate that there is no basis for the claim that immigration reduces capital output per worker. If anything, the data, are consistent with the reverse.

Finally, we examine the impact of immigration on economic growth as measured by deviations in the per capita supply of labor, conventionally defined by the labor force participation rate. Here we use data on labor force participation across 48 states from 1982-1985 as the dependent variable.[13] We find that the percentage of the State population that is foreign born in 1980 is a significant factor in accounting for interstate variations in the labor force participation rates (See Appendix). Specifically, the

Footnotes at end of article.

total effect in a given state of a one percent rise in the proportion of the State's population that is foreign born is uo raise the State's labor force participation rate by 0.19 percentage points. This means that over time, States with higher immigrant populations as a percentage of their total population will experience more rapid per capita growth than low immigration States.

CONCLUSION

We have tested the relationship between immigration and subsequent unemployment and per capita economic growth using a variety of economic models and specifications. Contrary to popular belief, virtually every way we examine the data we find that immigration does not increase unemployment. Indeed, increases in immigration correspond in our models to lower subsequent unemployment rates. Furthermore, immigration is shown to have a favorable, not a negative impact, on two principal measures of per capita economic growth, but we acknowledge that we are less comfortable with these results and more research needs to be done in this area.

These findings would suggest that the economic justification for strict immigration restrictions or for measures to closely regulate employer sponsored immigration, so as to "protect" American jobs, is highly suspect. Our models uniformly reject the notion that an increase in immigration quotas of the magnitude now under discussion in the U.S. Congress would harm the American economy or worker.

APPENDIX

The following is a description of the four models used in this study and the regression results obtained.

Immigration and Unemployment Over Time

Data were collected on the annual unemployment rate (U), labor productivity (Productivity), the hourly rate of employee compensation (Wage), and the consumer price index (Prices) for the 98 year period 1891-1988. We estimated the annual foreign born population by interpolating between decennial Census counts which measure the number of foreign born every ten years, with annual immigrant flow data as the basis for the interpolation. To standardize for the size of the population, we divide the foreign born stock by the annual population for the U.S. to obtain the major independent variable (Immigrant). The data come from the U.S. Department of Commerce. We used ordinary least squares regression procedures.

The results were:

U=68.548	(3.71)
−0.633 Productivity	(3.42)
+0.697 Wage	(2.54)
−0.910 Prices	(2.54)
−2.912 Immigrant	(2.78)
D−W=1.47	
R^2=.756	

NOTE.—Numbers in parentheses are t-statistics.

Immigration and Unemployment Across States

The second estimation was a pooled time series/cross section analysis using data for the years 1982, 1983, 1984, and 1985 for 48 contiguous states. The dependent variable is state unemployment rate (U) in each of these four various years. Hence, there are 192 observations (48×4). The independent variables are (measured for each state in 1980): (1) the percent of the population that was foreign born (Immigrant); (2) the percent of the population over the age of 65 (Aged); (3) the percentage of nonagricultural workers unionized (Union); (4) the proportion of the population age 16 and over working (Job); (5) the percentage of voters who voted for Reagan in 1984, a measure of the state's conservatism (GOP).

U=−0.080 Immigrant	(3.15)
−0.248 Aged	(4.99)
+0.042 Union	(2.70)
−0.341 Job	(16.16)
−0.020 GOP	(1.34)
R^2=.84	[1]

[1] Includes the effect of dummy variables.

NOTE.—The t-statistics are in parentheses.

Immigration and Capital Labor Ratio

The regression equation employed to explain variations in the capital labor ratio was as follows. The dependent variable is the annual capital-labor ratio (as previously defined) between 1926 and 1987 (Caplab). The two explanatory variables are (1) the annual percentage of the U.S. population foreign born (Immigrant), and (2) a measure of the passage of time, with 1 denoting 1926 and 62 denoting 1987. The actual regression equation is:

Caplab=41,354.2	(3.28)
+2,881.1 Immigrant	(2.41)
+1,297.3 Time	(9.31)
D-W=2.03	
R^2=.90	

NOTE.—The t-statistics are in parentheses.

Immigration and the Labor Force Participation Rate

The last set of regressions relate the foreign born stock by state in 1980 as a percentage of each state's population to the labor force participation rate in the states in 1982, 1983, 1984, and 1985. A two-stage regression analysis is used. In the first stage, the impact of immigration on four economic variables is measured. These are: (1) interstate variations in real wage rates, (2) the proportion of a state's population receiving public aid, (3) the proportion of a state's population receiving Social Security benefits, and the state unemployment rate. Ten independent variables, in addition to the immigration measure, are used to explain variations in these four dependent variables.

The predicted values for the dependent variables in the four first stage regression equations are then used as independent variables in a second stage regression that has as its dependent variable the labor force participation (Lab part.) rate by state. The results were as follows:

Lab part=0.282 real wage	(5.80)
−0.177 Public aid	(2.18)
−0.678 Social Security	(13.10)
−2.109 Unemployment	(22.41)
4R^2=.94	

NOTE.—The t-statistics are in parentheses.

FOOTNOTES

[1] The process by which immigrants may increase job creation is described more fully in: Greenwood and Hunt, 1984.

[2] See Light and Sanchez, 1987; and Borjas, 1990.

[3] On balance, the existing literature on this topic supports the contention that immigration does not cause unemployment. These include studies by Simon, Moore, and Sullivan (1990) which analyzed the effect of immigration across 83 U.S. cities from 1960 to 1977; Muller and Espenshade (1985), which examined immigration and unemployment among blacks and hispanics in 247 metropolitan areas in the U.S.; Card (1989) which examined the impact of the influx of the Mariel Cubans on the unemployment rates of blacks, whites and hispanics in the Miami labor market between 1980-86; and Greenwood and Hunt (1984) which examined new job creation attributable to net migration into 57 U.S. cities between 1958-1975. Each of these studies finds either no impact of immigration on unemployment or a very small positive effect. But none examine immigration over a very long time period as this study does.

[4] The foreign born population was estimated from U.S. Census Bureau benchmarks made at each decenial census with the pattern of change in the immigrant population in non-census years estimated from data on annual immigrant arrivals.

[5] Easterlin (1968) discovered that between 1834 and 1914 "swings in immigration were a response to corresponding swings in the demand for labor in the United States . . . During long swings in the U.S., a rising immigration rate was typically preceded by a rising rate of growth in hourly wages and, as far as the limited evidence goes, a rising unemployment rate."

[6] Since our dependent variable is the stock of foreign born as a percentage of population that have come prior to the year when we measure unemployment, reverse causality would not seem to be a large disturbance to our model. Only the very recent entrants would be effected by the current unemployment rate or even the unemployment rate in the recent years. Immigrants who arrived long before the time we measure national economic conditions could not be influenced in their decision to come by these conditions.

[7] See Chapin (1971); or Feldstein (1974).

[8] In a few cases, the negative relationship between unemployment and immigration was not statistically significant. In only one case did we find a positive relationship; this was a single loglinear estimation model. The relationship was very weak and the explanatory power of this model was far below the linear model, suggesting the inappropriateness of the loglinear function form.

[9] This pooled time series cross sectional approach uses ordinary least squares regression analysis to evaluate 192 unemployment observations. Unfortunately, unemployment rate measures are calculated differently by each state with some using procedures that bias their estimates consistently upward and others downward. The data is less than fully reliable, but is the best we have available. See: Simon, Moore, and Sullivan (1990) for an analysis of state/local unemployment data.

[10] Gallaway, Vedder, and Shukla (1974) have found that in their settlement patterns, immigrants have historically been drawn to economic stimuli, suggesting they tend to avoid areas where unemployment is high. This again, might raise the possibility of reverse causation in the model, although we believe that since we measure unemployment at least 2 to 5 years after the immigrants arrive, the problem is minimized.

[11] See, Simon (1989), especially pages 143-85.

[12] See, Simon (1989), pp. 86-7.

[13] The basic model to explain variations in labor force participation rates is described in: Gallaway, Vedder, and Dawson, forthcoming.

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DEDICATION OF INTERSTATE 635 IN HONOR OF SENATOR HARRY DARBY

Mr. DOLE. Mr. President, today a connecting portion of a major interstate which is key to the States of Kansas and Missouri, I-635, is being dedicated in honor of the late Senator Harry Darby—the Senator from Kansas who was appointed in 1949 to complete the unexpired term of Senator Clyde Reed. I would like to take this opportunity to recognize Senator Darby's lifetime of commitment to strong leadership and service to the Nation.

HIGHWAY NETWORK COMPLETED

This highway ties major business, industrial, and residential communities in greater Kansas City—linking Johnson County and Wyandotte County in Kansas with Platte and Clay Counties in Missouri—and is representative of Senator Darby's efforts toward endeavors mutually beneficial to both States.

It is fitting that an essential thoroughfare bear the name of Senator Darby. As the director of the Kansas State Highway System in 1933, he recognized the importance of an extensive highway system to the economic well-being of Kansas and aggressively developed a highway infrastructure throughout the State.

As a leading businessman and industrialist, Senator Darby not only transformed his family steel business into a major corporation, but also brought his talents to other enterprises including farming, banking, railroads, insurance, and retail sales. He demonstrated his commitment to a prosperous rural economy through his lifetime efforts dedicated to the American Royal, the annual livestock and cattle show in the heart of America which is today synonymous with Kansas City.

TRUSTED FRIEND OF IKE

Kansans also know Senator Darby through his service as a Republican national committeeman and for his untiring efforts dedicated to establishing the Eisenhower library and museum in Abilene, KS. His close friendship with Dwight Eisenhower is called to mind again as we approach the Celebration in Abilene on October 14 of the centennial of the birth of our 34th President and victorious World War II general.

Mr. President, with pride I join Governor Hayden of Kansas and officials from Missouri in celebrating the formal completion of this network between our two States and to salute a distinguished Kansan and colleague.

THE PASSING OF THE REVEREND JAMES A. HARDISON, JR.

Mr. GRAHAM. Mr. President, late Monday night, Florida and the Nation lost one of their finest crusaders.

The Reverend James A. Hardison, Jr., an Episcopalian minister from Tallahassee, devote his life to helping people. An extremely spiritual person, he preached to his congregation about the importance of serving the community and helping people who cannot help themselves.

And he served his calling not just from the pulpit, where he once urged worshipers to leave his midnight Christmas Eve service and go directly to comfort needy people in the community.

Jim Hardison volunteered his time serving meals to elderly, poor, and homeless people. He visited and corresponded with prisoners, earning himself the nickname "The Rev" at Florida State Prison. And he was an influential civil rights organizer.

He had an extraordinary interest in every person, from every walk or station in life, and he took it upon himself to enhance the life of each person he met.

But, although I greatly admired his volunteer work, it was not for his charity work but for his advocacy that I became acquainted with him.

I knew Jim Hardison because he made it his business for every elected official in Tallahassee to know about the causes he championed. He knocked on each door to talk with State legislators and executive officials about the homeless and the hungry, about disabled individuals and minorities, and about a host of social programs which help those members of society who most need government protection and assistance.

While I served as Governor of Florida, Reverend Hardison periodically visited me in an effort to further these goals. I was always impressed by his knowledge, his depth of understanding, and his overriding passion for these issues.

Jim's career of fighting for just causes ended September 24 with his 14-month battle with cancer. Last summer, doctors discovered in him a brain tumor, and he spent his remaining months defying doctors' predictions by keeping his health. Jim passed away painlessly, at home in the company of his family and closest friends.

Mr. President, Reverend Hardison inspired many to public service. His mark on the world will be measured not only by what he accomplished himself, which alone is astounding, but also by the people who continue to follow his example.

Jim's daughter Ann is one such person. Ann has worked in my office for nearly 2 years and has demonstrated in that time her commitment to serve the public both professionally and personally. I am proud to have Ann as a member of my legislative staff and as an example of the impact her father had on the world.

Mr. President, of profiles of courage of people who have faced these kinds of challenges, Jim Hardison will always be an example that death in itself is not an end. His memory continues to inspire people who knew him and have had the pleasure of his company.

Those who have known him have had their lives enriched by their acquaintance with him. Those who follow his example of public service and altruism will undoubtedly leave the world a better place for their efforts, as Jim Hardison has done.

Florida will miss Reverend Hardison for his devotion to others, his friendly words, and his kind face. Jim Hardison was a good parent, husband, minister, and neighbor. We thank him for his contributions, which will live on in the hearts of the many people he touched.

MOTOR VEHICLE FUEL EFFICIENCY ACT OF 1990

Mr. SPECTER. Mr. President, during Senate debate on the cloture vote on the Motor Vehicle Fuel Efficiency Act of 1990 yesterday, other Senate commitments precluded my making a floor statement on my reasons for voting against cloture.

I voted against cutting off debate because there are many complex issues involved in the bill which require extensive consideration including the following: The safety of the smaller cars which would be produced; the effectiveness of the use of alternative fuels for environmental protection; its impact on the steel and auto industries, and the overall feasibility of attaining higher corporate average fuel economy [CAFE] standards.

With regard to the feasibility of achieving the CAFE standards mandated in the bill, I am advised that there is considerable disagreement as to how much more weight reduction and fuel economy the auto companies can achieve without severely limiting product choice for the consumer.

Furthermore, what I believe has received scant attention in this debate is that new CAFE standards, which would be implemented simultaneously with new Clean Air provisions, may de-

crease the incentive for consumers to purchase clean fuel burning vehicles. In other words, such legislation may even increase our demand for oil as consumers put off making the transition to new modes of transportation. Until these questions can be addressed satisfactorily, I believe it is premature to impose new CAFE standards on the auto industry.

With respect to the assertion that higher CAFE standards will help curb global warming, I am advised that the impact by the year 2004 will be negligible, approximately a .03 percent reduction. Again, I believe alternative fuels and new modes of transportation are far more important over the long run in reducing the causes of global warming.

Given these considerations, at a time when many of our principal industries are struggling to remain competitive with foreign manufacturers, I am unwilling to rush to judgment on such important legislation.

If the price of oil stays high, the demand for small cars will rise and the auto companies will respond. If, as the Persian Gulf crisis unfolds, we find that this is not the case, then we can consider this information along with better cost, safety, and environmental data when we consider new energy conservation bills in the future.

Last week, I voted to cut off debate on the motion to proceed because I felt the Senate should consider the bill. When a bill is submitted for floor consideration very late in the Senate session as this one was, however, it is necessary to get adequate consideration for such legislation. There must be time for more debate. Frequently when a cloture vote is defeated, the bill stays on the floor for further consideration. It is not wise to rush to judgment on what may be bad legislation.

I am continuing to consider these important issues and I am sure that the Senate will revisit this legislative proposal at an appropriate time.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,020th day that Terry Anderson has been held captive in Beirut.

VISIT OF CYPRIOT PRESIDENT TO BOSTON

Mr. SARBANES. Mr. President, last week our distinguished colleague, the senior Senator from Massachusetts [Mr. KENNEDY] had the honor of welcoming George Vassiliou, President of the Republic of Cyprus, to the John F. Kennedy Library in Boston. The speeches delivered by Senator KENNEDY and President Vassiliou at that ceremony were a most eloquent testimony to the enduring relationship between the United States and Cyprus, as well as to the importance of bringing an end to the tragic occupation and division of the island. I ask unanimous consent that the two statements be printed in the RECORD.

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

REMARKS OF SENATOR EDWARD M. KENNEDY, VISIT OF PRESIDENT GEORGE VASSILIOU, JOHN F. KENNEDY LIBRARY, BOSTON, MA, SEPTEMBER 21, 1990

On behalf of all of us at the Library, I want to say how grateful we are for the leadership and dedication of John and Diddy Cullinane, who have made this Distinguished Foreign Visitors Program possible.

It is always a pleasure to gather with so many friends of Cyprus. It is a special honor for me to welcome a true champion of peace and justice on that island, President George Vassiliou.

This evening we are reminded again of the strong and continuing ties between Cyprus and the United States, and of the outstanding contributions that those of Hellenic heritage have made to America through their great civilization and their strong political and economic traditions.

In welcoming President Vassiliou, I am also mindful of President Kennedy's own strong ties to Cyprus. The relationship between Cyprus and the Kennedy family dates back even before the birth of the Republic of Cyprus. Archbishop Makarios once studied at Boston University School of Theology, and he often visited Massachusetts in the years before his inauguration as the first president of Cyprus in 1959.

In the oral history that President Makarios prepared for the Library, he described how, in December 1957, he was urged by friends to meet with a young Senator named John F. Kennedy. He had heard that my brother could help in the struggle to free Cyprus from colonial rule. President Makarios recalled that he left my brother's office with the feeling that he had found a friend and advocate for the freedom of Cyprus.

Four years later, President Makarios of the newly independent Republic of Cyprus was one of the first heads of state invited by President Kennedy to the White House. It was the beginning of a warm, strong, and enduring relationship between the United States and Cyprus.

Sadly, in spite of the independence they achieved, the courageous people of Cyprus have had to continue to struggle for peace and unity. We are all familiar with the unconscionable invasion by Turkish troops in 1974 and the Turkish occupation of the northern part of Cyprus which continues to this day.

The Bush Administration must give higher priority to Cyprus in America's foreign policy. Aggression is aggression is aggression. President Bush has made it clear that Iraq's invasion and occupation of Kuwait is unacceptable. And it is time he made clear to Turkey that their invasion and occupation of Cyprus is just as unacceptable.

Since George Vassiliou became President of Cyprus in 1988, we have admired his tireless commitment to a political settlement, based on the legitimate rights of both the Greek and the Turkish communities on Cyprus.

I recall our first meeting a year ago, when he spoke eloquently of unity and a permanent resolution of the conflict. He has also worked tirelessly with the Secretary General of the United Nations in the effort to achieve a just settlement, including reasonable territorial and constitutional guarantees for the Turkish community. Unfortunately, we have failed to see a constructive response by the Turkish Cypriots to President Vassiliou's initiatives.

We know the speed with which productive change can come, and we hope that it will come to Cyprus soon. In less than two weeks, East will meet West when Germany unites. It is also time for North to meet South on Cyprus. The Wall has disappeared in Berlin, and the Green Line must disappear in Cyprus.

All of us hope that under the leadership of President Vassiliou, Cyprus will soon prevail in this struggle for peace and unity.

I am honored to welcome him now to Massachusetts and to the Kennedy Library, a distinguished statesman of our time, President George Vassiliou.

RESPONSE BY THE PRESIDENT OF THE REPUBLIC OF CYPRUS, MR. GEORGE VASSILIOU, TO SENATOR KENNEDY, JOHN FITZGERALD KENNEDY PRESIDENTIAL LIBRARY, BOSTON, MA, SEPTEMBER 21, 1990

Senator Kennedy, Distinguished Guests, Dear friends, I am deeply moved and honoured to be here with you today within the hollowed walls of the John F. Kennedy Presidential Library and continue the special relationship between Cyprus, the American people and the Kennedy family.

President John Fitzgerald Kennedy is known and venerated as a great man and a great statesman with vision and ideals that, together with his great intellect and profound humanity, redefined the concept of leadership and motivated thousands of young men and women worldwide to aspire to public service as an ideal. He bequested on the world a legacy for justice and for freedom which, like the eternal flame at Arlington Memorial Cemetery, has become a guiding beacon for us all.

We in Cyprus, cherish most dearly the special relationship that exists between Cyprus and the Kennedy family. In the 1950's when Cyprus was struggling for its independence, it was John Kennedy, then a young Senator, who espoused the cause of the Cypriot people for freedom and identified himself fully with it. It is a fitting testament to a great man, that when the first President of the Republic of Cyprus, Archbishop Makarios, a former student of Boston University and priest to a nearby parish, paid an official visit to the United States in June 1962, he said to the American President: "In you we hail not only the great leader of the American people but also a great friend of Cyprus".

The bond of friendship that unites the people of Cyprus with the Kennedy family and the American people is as strong today as it was then.

Senator Edward Kennedy, in Cyprus we hold you in the highest esteem.

We will never forget that in the summer of 1974 when Cyprus was invaded by Turkey, a country whose army is larger than our total population, you were at the forefront of those who extended to us all possible help and moral support. It was you who organized the first Congressional Mission to go behind the Turkish lines in your

capacity as Chairman of the Senate Subcommittee on Refugees.

Today, I have the opportunity to express to you on behalf of the people of Cyprus, my government and myself, our thanks and appreciation for your continued staunch and unwavering support based on the ideals of freedom, justice and human rights for all Cypriots.

This is not the occasion to analyze the many dimensions of the Cyprus problem but it behooves us to remind ourselves of the continuing human tragedy of Cyprus that has been with us for nearly two decades. The occupation of nearly 40% of Cyprus by Turkey continues; a third of our population remain displaced, refugees in their own country; illegal Turkish settlers are altering the demographic character of Cyprus on a daily basis; our cultural heritage of 9,000 years is being obliterated.

It is not Cyprus that is losing its heritage but, the whole world is being deprived of its past, for it is the common heritage of mankind that is being destroyed. The most tragic dimension of the Turkish invasion however, remains the unknown fate of the missing Cypriots.

In spite of the difficulties of the situation and the continued frustration and undermining by Turkey of the United Nations efforts towards a just and viable solution, we will not be derailed from our determination and efforts to end the artificial division of our country and free it from foreign occupation and division.

The emerging European order and the new world order as a whole, demands the replacement of distrust and confrontation in the relations between states with that of cooperation and peace. Today more than ever, the settlement of disputes must be based on the norms of international law and the Charter of the United Nations and its resolutions.

The international community led by the United States in its united response following Iraq's invasion of Kuwait, expressed in no uncertain terms its determination to stand firm against international aggression. Its resolute stance, that the resolutions of the United Nations must be implemented, augers well for a new international order where the illegal use of force will not be tolerated.

That is why we, in Cyprus, approach the marking of our 30th anniversary since our independence, with confidence and renewed hope for our future and for the future of the world.

We believe that the international community will also turn its attention and apply the same principled stance to other problems, such as that of Cyprus.

The future of Cyprus lies in the restoration of its unity. Just as the dismantling of the Berlin Wall is uniting German with German, we too in Cyprus believe that the day will come when all Cypriots, Turks, and Greeks alike, will walk together hand in hand in a united Cyprus. We are firmly committed to this and to a settlement that would enable all Cypriots to live in freedom, peace, and security in their own country without outside interference.

Expressing his eternal optimism about the human condition, President Kennedy once said that:

"Our problems are man-made, therefore they can be solved . . . Man can be as big as he wants. No problem in human destiny is beyond the reach of human beings. Man's reason and spirit have often solved the seemingly unsolvable and . . . they can do it again".

Ladies and Gentlemen, the Cyprus problem is a man made problem. It therefore can be solved and we in Cyprus will not rest until it is solved.

We are at the crossroads of a new world that requires unity and peace amongst all. Now, more than ever, the eloquent words of President John Fitzgerald Kennedy must ring in the ears of all mankind:

Let the word go forth, from this time and place, to friend and foe alike, that the torch has been passed again, to a new generation of world leaders. We are strong, we are determined. We will not fail".

MESSAGES FROM THE HOUSE ENROLLED BILLS SIGNED

At 12:05 a message from the House of Representatives announced that the Speaker has signed the following enrolled bills:

S. 535. An act to increase civil monetary penalties based on the effect of inflation;

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality;

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organizations; and

H.R. 4962. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

At 1:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HAWKINS, Mr. FORD of Michigan, Mr. OWENS of New York, Mr. MARTINEZ, Mr. PAYNE of New Jersey, Mr. JONTZ, Mr. GOODLING, Mr. BARTLETT, Mr. BALLENGER, and Mr. SMITH of Vermont as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment, and modifications committees to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. KILDEE, Mr. SAWYER, Mrs. UNSOELD, Mrs. LOWEY of New York, Mr. POSHARD, Mr. GOODLING, Mr. TAUKE, Mr. COLEMAN of Missouri, and Mr. GRANDY.

From the Committee on Energy and Commerce, for consideration of title II of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, Mr. TAUZIN, Mr. BRUCE, Mr. TOWNS, Mr. WALGREN, Mr. SWIFT, Mr. LENT, Mr. MOORHEAD, Mr. DANNEMEYER, and Mr. FIELDS.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes;

H.R. 5254. An act to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1991 and 1992; and

H.R. 5255. An act to amend the National Fish and Wildlife Foundation Establishment Act to authorize appropriations for the National Fish and Wildlife Foundation for fiscal years 1991, 1992, and 1993, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5254. An act to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1991 and 1992; to the Committee on Environment and Public Works.

H.R. 5255. An act to amend the National Fish and Wildlife Foundation Establishment Act to authorize appropriations for the National Fish and Wildlife Foundation for fiscal years 1991, 1992, and 1993, and for other purposes; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transfered between the Federal Government and the States, and for other purposes.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. KOHL) announced that on September 25, 1990, he had approved the following enrolled bill:

H.R. 4773. An act to authorize the President to call and conduct a National White House Conference on Small Business.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3629. A communication from the Director of the Defense Security Assistance

Agency, transmitting, pursuant to law, a report on the Defense Security Assistance Agency's proposed letter of offer to Israel for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3630. A communication from the Under Secretary of Defense (Policy), transmitting, pursuant to law, the U.S. Government data base on NATO and Warsaw Pact Forces and Equipment; to the Committee on Armed Services.

EC-3631. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the Department of Defense to use simplified small purchase procedures outside the United States for procurements of supplies and services with a value of $100,000 or less in support of Operation Desert Shield; to the Committee on Armed Services.

EC-3632. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Review: Panama Canal Commission's 1989 Financial Statements"; to the Committee on Armed Services.

EC-3633. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to provide professional liability protection for certain military members ordered to active duty during military operations; to the Committee on Armed Services.

EC-3634. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize urgent supplemental appropriations for fiscal year 1990 for the Department of Defense, and for other purposes; to the Committee on Armed Services.

EC-3635. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, an interim report on the Nehemiah Housing Opportunity Grant Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-3636. A communication from the Secretary of Commerce, transmitting, pursuant to law, the status report of the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation; to the Committee on Commerce, Science, and Transportation.

EC-3637. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Secretary of Energy for 1988-1989; to the Committee on Energy and Natural Resources.

EC-3638. A communication from the Secretary of Energy, transmitting, pursuant to law, the eleventh annual report on the use of alcohol in fuels; to the Committee on Energy and Natural Resources.

EC-3639. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to repeal the annual limit on the temporary assistance that may be provided to U.S. citizens returned from foreign countries and to authorize acceptance of gifts for the program; to the Committee on Finance.

EC-3640. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the quarterly report on human rights activities in Etheopia for the period April 15, 1990-July 14, 1990; to the Committee on Foreign Relations.

EC-3641. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during August 1990; to the Committee on Governmental Affairs.

EC-3642. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a proposed plan for the use and distribution of Walker River Paiute Tribe judgement funds; to the Select Committee on Indian Affairs.

EC-3643. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "The Health Benefits of Smoking Cessation"; to the Committee on Labor and Human Resources.

EC-3644. A communication from the Chairman of the Commission on Railroad Retirement Reform, transmitting, pursuant to law, the report of the Commission; to the Committee on Labor and Human Resources.

EC-3645. A communication from the Assistant Secretary of Health and Human Services (Human Development Services), transmitting, pursuant to law, a report on progress of four reports on specific topics related to child abuse; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1980. A bill to provide for the repatriation of Native American group or cultural patrimony (Rept. No. 101-473).

By Ms. MIKULSKI, from the Committee on Appropriations, with amendments:

H.R. 5158. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-474).

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

H.R. 435. A bill to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region.

H.R. 4758. A bill to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, Texas.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment and with a preamble:

S. Res. 312. A resolution to express the sense of the Senate regarding the need to develop a zebra mussel research and control program through the Great Lakes Fishery Commission.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 427. A bill to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, as the "Bob Sikes Visitor Center."

S. 2806. A bill to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System.

S. 2879. A bill to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

S. 2965. A bill to designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building."

S. 3046. A bill to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House."

S. 3062. A bill to transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, Mississippi, to the States of Mississippi and Arkansas.

S. 3068. A bill to establish the Office of Take Pride in America, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Billie Davis Gaines, of Georgia, to be a member of the National Council on the Humanities for a term expiring January 26, 1994;

Bruce D. Benson, of Colorado, to be a member of the National Council on the Humanities for a term expiring January 26, 1994;

Michael T. Bass, of Florida, to be a member of the National Council on the Humanities for a term expiring January 26, 1994;

Earl Roger Mandle, of the District of Columbia, to be a member of the National Council on the Arts for a term expiring September 3, 1994;

Helen Gray Crawford, of Louisiana, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Margaret P. Duckett, of Pennsylvania, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Henry H. Higuera, of Maryland, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Peter Shaw, of New York, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Joyce Elaine Tucker, of Illinois, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1991;

Carol K. DiPrete, of Rhode Island, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1991; and

Joan R. Challinor, of the District of Columbia, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years.

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. DASCHLE:

S. 3110. A bill to amend the Act of December 22, 1944 (known as the "Flood Control Act of 1944") to mitigate damages resulting from water management decisions, and for

other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 3111. A bill to urge and request the President to initiate negotiations with certain foreign nations relating to increasing the burden shared by such nations for the protection of the military and security interests of such nations; to the Committee on Foreign Relations.

By Mr. WIRTH:

S. 3112. A bill to amend the Federal Home Loan Bank Act, the Home Owners' Loan Act and other Acts to restructure the Resolution Trust Corporation and dissolve the Oversight Board, to merge the Office of Thrift Supervision into the Office of the Comptroller of the Currency, to dissolve the Federal Housing Finance Board, and to restructure the Federal prosecution of bank crimes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN (for himself, Mr. BOREN and Mr. DASCHLE):

S. 3113. A bill to amend the Internal Revenue Code of 1986 to repeal section 2036(c), to provide special valuation rules in certain cases involving estate freezes, and for other purposes; to the Committee on Finance.

By Mr. MACK (for himself and Mr. BREAUX):

S. 3114. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3115. A bill to authorize the Secretary of Transportation to prohibit, by regulation, certain aircraft overflights of areas which have been declared disaster areas; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS:

S. 3116. A bill to amend title XIX of the Social Security Act to provide that infants born to medicaid eligible women are continuously eligible for benefits under such title for 1 year; to the Committee on Finance.

By Mr. BRADLEY:

S. 3117. A bill to reauthorize the Commission on Interstate Child Support, and for other purposes; considered and passed.

By Mr. MOYNIHAN:

S. 3118. A bill entitled the Medicaid Drug Dependency Treatment Coverage Act of 1990"; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. BYRD, Mr. SIMPSON, Mr. MURKOWSKI, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. THURMOND, Mr. SPECTER, and Mr. JEFFORDS):

S. Res. 328. A resolution commending Jonathan R. Steinberg for his faithful and outstanding service to the United States Senate and the Nation; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 3110. A bill to amend the Act of December 22, 1944 (known as the "Flood Control Act of 1944") to mitigate damages resulting from water management decisions, and for other purposes; to the Committee on Environment and Public Works.

IMPROVED MANAGEMENT OF THE MISSOURI RIVER

● Mr. DASCHLE. Mr. President, I rise today to introduce a measure which will help lay the groundwork for future management of the Missouri River water flows by the United States Army Corps of Engineers.

Management of the Missouri River has been rendered particularly challenging by the multiyear drought conditions recently experienced by the northern plains States. When flows are adequate, few problems arise. When those flows are reduced by abnormally low precipitation, competition for the limited water volume becomes fierce.

The Army Corps of Engineers, with little direction within prevailing law for establishing priorities, must make operating decisions to allocate water flows for various water uses. In so doing, the potential for adverse impact is significant.

Earlier this year, Governors of the three upper basin States brought suit to temporarily halt Army Corps water releases from the Oahe reservoir, to protect the already severely impacted recreational and environmental interests. A U.S. circuit court of appeals panel overturned a lower court ruling in favor of the governors, yet stated its serious reservations that the corps' decision making is subject to judicial review.

Mr. President, I offer this bill which has been presented to me by Governor George Mickelson on behalf of our State of South Dakota. The purpose of this measure is to direct the Secretary of the Army to operate the Missouri River system so as to minimize adverse impact, both environmental and economic, to all authorized uses. This measure also provides for the mitigation of damages resulting from unfavorable Corps operating decisions and authorizes for appropriating $100 million to compensate those States and tribes unfairly impacted by such decisions.

In addition, this measure provides for appropriate judicial review by allowing for district court jurisdiction in the review of determinations made under this act.

I encourage all my colleagues, especially those from Missouri River Basin States, to join me in support of this measure, which will minimize the adverse effects of Missouri River management and, in so doing, will also improve current operations to the benefit of all.

Mr. President, I offer this bill in confidence that it will provide for improved management of water flows and, thus, will benefit all Missouri River Basin States. I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 3110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF MANAGEMENT REVIEW PROCEDURES.

To the extent consistent with section 1(b) of the Flood Control Act of 1944 (58 Stat. 889; 33 U.S.C. 701-1), the Secretary of the Army, in operating the Missouri River mainstem reservoirs, shall minimize adverse environmental and economic impacts to all authorized uses on the Missouri River and mainstem reservoir system. If an authorized use is threatened with adverse impact, or is adversely impacted by the operation of the system, the Secretary, within five days of a written request by a threatened or an impacted State or tribe, shall implement operational changes to prevent or mitigate the threatened or actual adverse impacts unless the Secretary determines that the potential adverse impacts of the preventive or mitigative action requested outweigh the environmental and economic impacts on the State or tribe. If the Secretary makes such a determination, the Secretary shall notify in writing the State or tribe requesting the operational changes. Such notification shall be provided not later than five days after the Secretary receives the request for operational changes and shall include a detailed explanation of the reasons the adverse impact to the use cannot be prevented, minimized or mitigated through such operational changes.

SEC. 2. GRANTS TO STATES AND TRIBES.

Not later than 30 days after damages have been reported to the Secretary of the Army, the Secretary shall make grants to the impacted States or tribes for the purpose of—

(1) mitigating impacts in the Missouri River Basin States incurred as a result of operational adjustments which were implemented or denied under section 1; and

(2) constructing facilities, including—

(A) public and private irrigation, domestic and industrial water supply intakes;

(B) boat ramp extensions, marinas and other recreational facilities;

(C) fisheries facilities;

(D) stream bank protection;

(E) navigation facilities; and

(F) other associated facilities.

SEC. 3. FINAL ACTION AND FEDERAL JURISDICTION.

The actions of the Secretary of the Army under sections 1 and 2 of this Act constitute a final agency action for purposes of section 704 of title 5, United States Code. The United States district courts shall have jurisdiction under section 706 of title 5, United States Code to review determinations made pursuant to sections 1 and 2 of this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Army $100,000,000 for the purpose of implementing section 2 of this Act.●

By Mr. BAUCUS:

S. 3111. A bill to urge and request the President to initiate negotiations with certain foreign nations relating to increasing the burden shared by such nations for the protection of the

military and security interests of such nations; to the Committee on Foreign Relations.

BURDEN SHARING

Mr. BAUCUS. Mr. President, I rise today to introduce legislation aimed at more equitably distributing the security burden between the United States and its allies.

THE PERSIAN GULF CRISIS

The Persian Gulf crisis has brought the burden sharing problem into sharp focus.

Americans are shocked and dismayed by the attitude of some of our wealthiest allies toward helping the United States shoulder the burden in the Persian Gulf.

Nations, like West Germany, Japan, and South Korea, are quite happy to import oil from the Persian Gulf. In fact, each of these nations is at least twice as dependent on oil imports from the Gulf than the United States.

Fortunately they do join in U.N. efforts to condemn Iraq.

Unfortunately, when it comes to actually coming up with the military forces or the money to confront Iraqi aggression in the gulf these nations are not so eager to help.

Eventually, after intense pressure from the United States, Japan and Germany did make a contribution to our efforts to the gulf.

But most believe that Japan's $4 billion and Germany's $2 billion fall far short of the mark given their stake in the Persian Gulf.

Still other allies, such as South Korea, have still to make a meaningful commitment to the gulf.

In fact, it could be said that none of our allies, with the exception of some Middle Eastern nations, have yet made an equitable commitment to the gulf. On a proportional basis, none of our major allies has come close to our commitment of men and military machinery.

The President's efforts to win allied support for the Persian Gulf efforts deserve praise. But more needs to be done.

BURDEN SHARING

The Persian Gulf crisis is a microcosm of the burden sharing problem, not the whole problem.

Even if the burden of the Persian Gulf crisis were equitably shared, the United States would still be carrying far too large of a load around the world.

EUROPE

Let's take a quick look around the world:

The United States spends about $160 billion supporting NATO.

On a per capita basis, the United States spends more defending Western Europe than Germany.

Certainly, the United States does have an interest in European security.

But does it have a larger stake in Europe than Germany? Clearly, no.

Last year, Germany had the largest trade surplus in the world.

West Germany also recently committed up to $550 million per year to go toward maintaining Soviet troops stationed in East Germany.

If Germany can contribute $550 million to keeping Soviet troops in Germany, can't it also pay more to support the more than 336,000 United States troops in Europe?

JAPAN

We face a similar situation in Japan.

The United States now maintains 55,000 troops in Japan at an annual cost to the United States Treasury of approximately $4.6 billion per year.

Japan currently contributes about $2.5 billion to the cost of maintaining United States forces in Japan.

Admittedly, the United States forces in Japan also contribute to the security of the whole Asian region, not just Japan.

But Japan has at least an equal stake in the security of the region.

And Japan spends only about 1 percent of its GNP on defense while the United States spends 6 percent.

Further, Japan has one of the strongest—if not the strongest—economies in the world.

Japan has consistently run a $50 billion trade surplus with the United States and an $80 billion trade surplus with the world.

Isn't it time we asked Japan to pick up a larger share of the cost of its own defense, particularly in light of its dependence on imported oil?

OTHER NATIONS

And the list could go on and on.

We have 43,000 troops at a very high state of readiness stationed in South Korea.

The United States also maintains a naval fleet disbursed around the world and military facilities in a dozen other countries.

Clearly, the United States maintains those forces to promote its own security goals. But the troops also protect the United States allies.

In light of the shifting economic power in the world, it now makes sense for those allies to pick up a larger share of the cost of their own defense.

BAUCUS BURDEN SHARING LEGISLATION

I recognize that shifting some of the security burden from the United States to its allies is complex, its politically sensitive, and time-consuming.

It is work for a scalpel, not a meat ax.

But I believe we can create a legislative scalpel.

I am today introducing legislation that requires the President to undertake an overhaul of the current sharing of the security burden between the United States and its allies as a condition for obtaining funding for the basing of U.S. military forces overseas.

Specifically, the legislation requires the President to identify, by March 1 of next year, those nations that do not contribute adequately to their own defense and have the economic means to make a larger contribution.

Admittedly, this is a subjective task. But legislation does outline some criteria and I believe some of the nations just mentioned clearly meet those criteria.

Once the nations are identified, the President is directed to enter into negotiations with those nations—in full consultation with Congress—to increase their contribution to their own defense.

The President is allowed to seek increased contributions through several avenues, including direct increases in military spending or contributions to the United States to offset U.S. expenditures.

This flexibility should avoid a direct conflict with constitutional or social constraints of other nations.

Finally, if those negotiations are not successful within 18 months, the President is given the option of taking retaliatory measures, including but not limited to withdrawing U.S. military forces currently committed to defending the country in question.

CONCLUSION

Admittedly, this is nothing more than a first step.

The President is given wide latitude at all steps in the process.

The legislation is an attempt to focus attention on burden-sharing, without tying the President's hands.

It is intended to be only a gentle push to get the administration and our allies moving in the right direction.

But if a gentle push like this is not sufficient to spur movement, I expect that Congress may soon resort to a hard kick.

The United States can no longer afford to foot the entire bill for our allies' security.

As the President noted in his recent address to the Nation, it is time to seek a new world order.

And I applaud the steps he has taken toward this end. But we must do more.

The new order must include a radical restructuring of the world security burden. This bill attempts to start the process of restructuring.

I ask that the text of the bill appear immediately following my statement in the RECORD.

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

S. 3111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BURDEN-SHARING BY ALLIES OF THE UNITED STATES FOR EXPENDITURES RELATING TO MILITARY AND SECURITY INTERESTS

(a) IDENTIFICATION OF BURDEN-SHARING NATIONS.—Not later than March 1, 1991, the President shall identify for Congress each nation, in the judgment of the President, that—

(1) is an ally of the United States;

(2) has a sufficiently strong economy (based upon rate of economic growth, current account position, and other appropriate measures of economic activity) to support increased expenditures for defense and security purposes;

(3) has defense and security interests that are being protected by any component, unit, or force of the Armed Forces of the United States deployed outside of the United States; and

(4) in the calendar year preceding the date of the identification, has expended a percentage of such nation's gross national product for the protection of the defense and security interests of such nation that is disproportionately small in relation to existing threats to such interests.

(b) NEGOTIATIONS ON BURDEN-SHARING.—(1) The President is urged and requested to initiate negotiations with the government of each nation identified pursuant to subsection (a) with a view to obtaining the commitment of such government to increase its expenditures for the defense and security interests of such nation.

(2) For the purposes of the negotiations referred to in this subsection, a nation shall be considered to have increased expenditures for the protection of its defense and security interest if such nation—

(A) increases the percentage of such nation's gross national product attributable to expenditures by such nation for the protection of such interests (including expenditures related to the replacement or augmentation with armed forces of such nation of units, components, or forces of the Armed Forces of the United States now stationed within such nation to protect the defense and security interests of such nation);

(B) provides financial, logistic, medical, foreign aid, or other assistance to support United States or multilateral armed forces protecting such interests for such nation; or

(C) reimburses the United States for costs incurred by the Armed Forces of the United States to protect such interests.

(3) Not later than October 1, 1992, the President shall report to the Congress on the progress of the negotiations initiated pursuant to this subsection.

(c) LIMITATION ON OBLIGATIONS FOR ARMED FORCES ABROAD.—On or after October 1, 1991, funds appropriated to or for the Department of Defense may not be obligated for the support of any component, unit, or force of the Armed Forces of the United States serving in a foreign nation identified pursuant to subsection (a) unless the President has initiated negotiations with the government of such nation pursuant to subsection (b).

(d) SANCTIONS FOR UNSUCCESSFUL NEGOTIATIONS.—If, in the judgment of the President, negotiations with the government of a nation undertaken pursuant to this Act are unsuccessful, the President may impose upon such nation any sanctions the President considers appropriate, including the withdrawal of military support by the Armed Forces of the United States for the defense and security interests of such nation.

By Mr. WIRTH:

S. 3112. A bill to amend the Federal Home Loan Bank Act, the Home Owners' Loan Act, and other acts to restructure the Resolution Trust Corporation and dissolve the Oversight Board, to merge the Office of Thrift Supervision into the Office of the Comptroller of the Currency, to dissolve the Federal Housing Finance Board, and to restructure the Federal prosecution of bank crimes; to the Committee on Banking, Housing, and Urban Affairs.

SAVINGS AND LOAN SIMPLIFICATION ACT

Mr. WIRTH. Mr. President, I rise to introduce the Savings and Loan Simplification Act of 1990 [SALSA], legislation designed to streamline the structure of the Federal Government's efforts to address the troubles of the thrift industry. The S&L debacle is arguably the greatest financial crisis since the Great Depression. Losses are mounting at a rate of several million dollars a day and resolving the S&L crisis will be among the most expensive undertakings in U.S. history. The projected cost of this effort has been steadily increasing, with the most recent General Accounting Office estimate reaching at least $375 billion, well over $1,000 for each person in the United States.

There is no single culprit responsible for the widespread losses experienced by savings and loans. Instead, the causes of the crisis are complex and varied. Forbearance and inadequate supervision by regulators, major downturns in regional economies, imprudent industry responses to deregulation, and fraud and insider abuse by thrift owners and management all contributed significantly to the problem we now face. The debacle is a colossal mess, Mr. President—and I have found that the more you learn about it the more daunting it looks.

We must examine all the factors that contributed to thrift losses so we can avoid a recurrence of the problems that have plagued the industry and vigorously pursue criminal activity that led to taxpayer losses. Nevertheless, the main task has to be to clean up this problem, and to do so at the lowest possible cost to the American taxpayer.

Last year, the administration got off to a good start by proposing the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA]. President Bush recognized that we faced a very significant problem and proposed legislation, promptly acted upon and improved by the House and Senate, that offered a good first step at resolving the savings and loan industry's problems. I did not support every element of the President's legislation, disagreeing, for instance, with its off-budget financing scheme and the plan to allow the Chairman of the Federal Home Loan Bank Board to become Director of the Office of Thrift Supervision [OTS] without Senate confirmation. Nevertheless, I thought the President's plan, on balance, was worthy of support.

Unfortunately, in recent months, I have become concerned by the administration's implementation of FIRREA. The S&L crisis deserves to be a high priority. Yet it seems that the administration has not been giving the S&L crisis the urgent attention that it requires. A variety of factors have led to this conclusion. These include the sluggish pace of resolutions of failed institutions, the slow pace of asset sales and the circumstances surrounding the resignation of Daniel Kearney as chief executive of the Resolution Trust Corporation [RTC] Oversight Board. These events raise concerns about the level of coordination between the various agencies involved in the S&L rescue operation and the lack of overall guidance from the administration. Too often, it seemed like no one was in charge or, worse, that several people thought they were.

I also found the administration's protracted delay in filling many of the positions related to the S&L bailout particularly troubling. The President waited more than 6 months after FIRREA's enactment, to name the two public members of the RTC Oversight Board, which is supposed to determine the policies guiding the RTC in its efforts to close or merge insolvent S&L's and liquidate remaining assets. After a long delay, the administration chose to appoint part-time rather than full-time members to the Federal Housing Finance Board. The Banking Committee has not held hearings on the nominations because of the decision to offer part-time nominees. There was also a long delay in the appointment of the RTC's Regional Advisory Boards. Finally, the administration knew of M. Danny Wall's departure as Director of OTS for nearly 4 months before naming a replacement, 2 days after a judicial decision forced the issue.

I have also been deeply troubled by the administration's failure to request adequate funding to investigate and prosecute criminal activity related to thrift failures. Last year in FIRREA the Congress authorized $75 million annually for 3 years for this purpose. However, the administration requested only $50 million for the current fiscal year and did not specify its request for next year. Fraud and other criminal activity contributed to the S&L crisis and it is plain our law enforcment officials do not have adequate resources to investigate and prosecute criminal activity in this area. Both the House and Senate have moved to address this issue and, once Congress began to act,

the administration announced support for initiatives in this area.

All of these elements have contributed to my reservations about the progress of the plan to resolve the problems facing the thrift industry and the deposit insurance fund. I am concerned that the administration has simply not given this matter priority and attention commensurate with its cost and importance. I am also concerned that the overall structure of the President's S&L rescue operation is too cumbersome and has contributed to the slow progress thus far. The wide variety of individuals and agencies involved obscures responsibility and makes it difficult to reach swift decisions and act promptly. The legislation I introduce today, the Savings and Loan Simplification Act of 1990, is designed to streamline this structure.

The legislation would accomplish this by reducing the number of agencies involved in S&L-related issues. A number of entities would be abolished and their responsibilities transferred to other already-existing agencies. The RTC Oversight Board, the Federal Housing Finance Board [FHFB], and the OTS would all be abolished under the proposal.

The RTC Oversight Board would cease to exist. However, the separate RTC Board of Directors would remain in place and continue to direct the Corporation's operations. This Board would be expanded by adding two independent members to be appointed by the President. The members of the Federal Deposit Insurance Corporation [FDIC] Board would continue to serve on the RTC Board and the FDIC chair would chair the RTC Board as well.

The present structure has been described as providing two heads for the RTC. This arrangement makes it difficult for the RTC to act quickly with one voice and leads to confusion over who is actually in charge of the Corporation. The early months of the RTC saw conflicts between the two boards. The confusion and disarray were among the factors that led to Daniel Kearney's resignation as president of the Oversight Board earlier this year.

Elimination of the Oversight Board would remove one level of the bureaucracy directing the RTC's actions. Consolidating the Oversight Board's policy guidance and the RTC Board's responsibility for day-to-day operations is more efficient and would lead to swifter decisionmaking and implementation at the RTC.

The present Oversight Board includes the Secretary of the Treasury, the Secretary of Housing and Urban Development and the Chairman of the Federal Reserve Board. These three individuals have a wide variety of important responsibilities and resolving the S&L crisis is only one of a number of matters competing for their time and attention. The RTC should be directed by individuals without major responsibilities in other areas. The consolidated board this legislation would establish includes the members of the FDIC Board, who direct an agency that performs tasks similar to the RTC, and two public members appointed by the President who could hold no other Government position.

The legislation would also abolish the Office of Thrift Supervision and transfer supervisory authority over savings and loan associations to the Office of the Comptroller of the Currency. Authority over thrift holding companies would move to the Federal Reserve, which currently regulates bank holding companies. Supervising banks and thrifts requires similar expertise and regulations. In FIRREA, we moved to harmonize capital standards and other regulatory requirements for banks and thrifts. This is a welcome trend. We should take a further step in having the same regulator oversee both federally chartered banks and thrifts. This will ensure that both types of institutions receive similar regulatory treatment and compete on a level playing field.

Consolidating bank and thrift supervision would also be a step toward increased functional regulation of financial services and markets. Functional regulation is an important element of many proposals to modernize our regulatory structure to reflect developments in the rapidly changing financial services industry. For example, the Banking Committee recently heard testimony on this matter from Gerald Corrigan, president of the New York Federal Reserve Bank and a leading advocate of the functional approach to regulation.

Abolishing OTS would reduce the dulplication of resources within two regulatory bodies. It would promote efficiency and reduce some costs. However, I do not advocate eliminating the expertise that exists within the OTS. I expect that many OTS personnel would move to the Comptroller's office or the Federal Reserve as those agencies take over responsibility for thrift regulation. Abolishing OTS also does not mean there is no place for financial institutions that concentrate on home lending, the traditional role of S&L's. I believe there will continue to be a need and market niche for such institutions. Consolidating regulatory supervision does not necessarily mean we should abandon the Federal Home Loan Bank System and other efforts to encourage and support mortgage lending.

The legislation would also abolish the Federal Housing Finance Board [FHFB]. The President's delayed appointment of part-time members to this Board clearly indicates that the administration does not believe that the Board is an important component of the S&L rescue plan. The legislation would transfer responsibility for supervising the Federal Home Loan Banks to the Federal Reserve Board. FIRREA established an affordable housing program financed by contributions from the Federal Home Loan Banks and administered by the FHFB. Under SALSA, HUD would administer this program.

The legislation clarifies that any existing rights, duties, or obligations of the U.S. OTS, and the FHFB are not affected by the legislation, nor shall any lawsuits or other legal actions be abated by the legislation. Another provision provides that existing orders, resolutions, determinations, and regulations of the abolished agencies will remain in force unless and until changed by the successor agencies. These are important transition provisions to limit the disruption and confusion that might otherwise result from the legislation.

The legislation would also restructure the Board of Directors of the FDIC by removing the Director of OTS, abolished by the legislation, from the Board and making the Comptroller of the Currency a non-voting member. There would be three voting members appointed by the President, one of whom would serve as Chairman.

Another provision of the legislation relates to the disposition of environmentlly significant property acquired by the RTC. FIRREA contained a provision to help encourage the sale of environmentally valuable property to appropriate governmental agencies and conservation groups. I believe an important market exists for such properties. However, after several efforts to encourage the RTC, I have been disappointed with the Corporation's efforts to pursue such sales. For this reason, I am proposing new procedures to guide the disposition of environmentally significant property. The RTC would be authorized to transfer property with significant natural, cultural, recreational, or scientific value. In addition, the Secretary of the Interior can direct the Corporation to transfer property of significant natural value to Federal or state agencies. Finally, the RTC would be required to provide public agencies and nonprofit conservation groups with an opportunity to purchase the property before it can be offered to other purchasers.

An important provision of the legislation establishes a fraud and enforcement review division within the RTC. The division would help the RTC and other relevant agencies pursue criminal cases, civil claims, and administrative enforcement actions against parties affiliated with institutions taken over by the RTC. The division shall also issue semiannual reports on the

coordinated pursuit of claims by relevant Federal agencies.

The fraud and enforcement review division would assist investigators in pursuing thrift crimes. Currently, the RTC and regulators make criminal referals and provide relevant information to investigators. However, their main focus must be on their regulatory activities and resolving thrift insolvencies. A separate division would be able to focus on coordination with other agencies and perform the task more efficiently and effectively.

A variety of regulatory agencies can make criminal referals to the Department of Justice for FBI investigation and possible prosecution by U.S. attorneys. I have found that Department of Justice funds, activities, and records regarding S&L related crimes are often aggregated together with other bank fraud and white-collar crime cases. It is difficult to determine the full extent of criminal activity within the industry and the progress of efforts to pursue those who contributed to taxpayer losses. The fraud and enforcement division would be able to coordinate, and provide information about, the Government's activities in this area.

The division would also help the RTC police the many transactions involving its contractors and properties under the Corporation's control. The RTC's function carries with it the potential for fraud and abuse similar to what we saw in HUD during the 1980's. The fraud and enforcement division would help the RTC guard against such problems.

SALSA would also further restrict the RTC's ability to borrow so-called working capital. Currently, the RTC can borrow up to 85 percent of the value of the assets it holds, available cash, and any borrowing authority not yet used by the Resolution Funding Corporation, the shell corporation that raises funds for the RTC. The legislation would reduce this limit to 75 percent.

Rising estimates of the need for working capital and the impact of this borrowing on the Federal budget deficit and the Gramm-Rudman-Hollings process have focused attention on this topic. The RTC may not be able to repay working capital borrowing if the returns from asset sales are significantly lower than expected. The value of the assets held by the RTC is a moving target and current estimates may prove high. For this reason, allowing the RTC to borrow up to 85 percent of the value of its assets could prove risky. We may need to allow further borrowing by the RTC but I am concerned that the present process allows the RTC too much leeway to borrow without congressional approval.

The legislation also gives the FDIC authority to increase deposit insurance premiums. In recent weeks, both CBO and GAO have issued reports that raise serious concerns about the health of the Bank Insurance Fund. Both reports indicate that the fund is under stress and that a major bank failure or a signficant recession could wipe out the fund. Because of concerns about losses to the fund in recent years, the FDIC has proposed to increase the insurance premium from the current 12 cents for each $100 in deposits to 19.5 cents, the maximum permitted under current law. This legislation would authorize the FDIC to further increase premiums for both banks and thrifts if necessary. It does not require or mandate that the FDIC increase premiums. Senator RIEGLE has recently introduced separate legislation granting this authority. I believe we should act on this matter before the close of this Congress.

Finally, the legislation calls for a Financial Institutions Fraud Unit, headed by a special counsel to supervise and coordinate investigations and prosecutions within the Department of Justice of criminal activity related to the financial services industry. This section of the proposal also calls for task forces to ensure that adequate resources are available in this area and a senior interagency group to identify the most significant S&L and bank fraud cases and focus resources where they are most needed. This group would include officials from both the Department of Justice and financial institution regulatory agencies.

This, then, is what my proposal would do. Many of the problems that we have seen this year may be attributed to the growing pains that can be expected at the start of any project of this scope and magnitude. Nevertheless, I believe the problems can be attributed in part to the cumbersome structure of the President's plan. The administration may be moving more aggressively on the S&L rescue now but a cumbersome structure has not helped so far and may again lead to problems in the future.

I understand the concern of many that we should not reopen FIRREA at this time. In fact, it may be too late in this Congress to give the issue the close consideration it requires. However, the need for additional capital to rescue S&Ls and the Treasury Department's deposit insurance study are likely to prompt legislation early next year. The next Congress is also likely to see another effort to craft comprehensive financial restructuring legislation. Other factors may also encourage legislation related to FIRREA. Whether we act now or later, I believe the provisions of the Savings and Loan Simplification Act deserve our serious consideration.

Although I did not include it in this legislation, I believe we should seriously consider consolidating regulation of all insured depository institutions. Establishing one, independent regulator would help ensure that all institutions receive consistent treatment and compete on a level playing field. FIRREA was, in many ways, a step in this direction. Passage of SALSA would go a step further by folding OTS into the Comptroller's Office. If we keep moving toward more consistent and functional regulation, and I think we should, moving to a single, independent regulator for all depository institutions would be efficient. Rather than chartering and regulating different types of institutions to meet different needs in the financial marketplace, we could simply allow institutions to determine their own market niche. If we do so, however, we must take care to keep the regulator and the insurance fund separate.

I look forward to continuing to work with Chairman RIEGLE, Senator GARN and my other colleagues on the Banking Committee as we address issues related to the savings and loan industry and the financial services industry.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF THE SAVINGS AND LOAN SIMPLIFICATION ACT OF 1990

Section 1—This section would title the legislation "The Savings and Loan Simplification Act of 1990."

TITLE I

Section 101—This section would abolish the Resolution Trust Corporation (RTC) Oversight Board. The separate RTC Board of Directors would be expanded by adding two independent members appointed by the President and confirmed by the Senate. The Chairman of the Federal Deposit Insurance Corporation Board would continue to serve as Chairman of the RTC Board as well.

Section 102—This section transfers to the Secretary of the Treasury the authority that the RTC Oversight Board presently has over the Resolution Funding Corporation, the entity which issues the bonds that finance the RTC.

Section 103—This section would abolish the Federal Housing Finance Board (FHFB). The responsibilities of this Board would be shifted to the Federal Reserve Board with the exception of the Affordable Housing Program established by FIRREA. The program would be administered by the Department of Housing and Urban Development.

Section 104—This section would abolish the Office of Thrift Supervision (OTS) and transfer supervisory authority over savings and loan associations to the Office of the Comptroller of the Currency and the Federal Reserve.

Section 105—This section would restructure the Board of Directors of the Federal Deposit Insurance Corporation (FDIC). The Director of OTS would no longer serve on the Board and the Comptroller of the Currency would become a non-voting members. There would be three voting members ap-

pointed by the President, one of whom would serve as Chairman.

Section 106—This section includes a number of transitional provisions relating to the changes made by the legislation. Some of the provisions deal with the transfer and reassigning of assets and personnel of OTS and FHFB, as well as the rights of employees affected by the changes. Other provisions clarify that any existing rights, duties, or obligations of the United States, OTS, and the FHFB are not affected by the legislation, nor shall any lawsuits or other legal actions be abated by the legislation. Finally, the section provides that existing orders, resolutions, determinations, and regulations of OTS and FHFB will remain in force unless and until changed by the successor agencies.

Section 107—This section relates to the disposition of environmentally significant property acquired by the RTC. The RTC would be authorized to transfer property with significant natural, cultural, recreational or scientific value. In addition, the Secretary of the Interior can direct the Corporation to transfer property of significant natural value to federal or state agencies. Finally, the RTC would be required to provide public agencies and non-profit conservation groups with an opportunity to purchase the property before it can be offered to other purchasers.

Section 108—This section establishes a fraud and enforcement review division. The division would help the RTC and other relevant agencies to pursue criminal cases, civil claims and administrative enforcement actions against parties affiliated with institutions taken over by the RTC. The division shall also issue semi-annual reports on the coordinated pursuit of claims by relevant federal agencies.

Section 109—This section would further restrict the RTC's ability to borrow so-called "working capital." Currently, the RTC can borrow up to 85 percent of the value of the assets it holds, available cash, and any borrowing authority not yet used by the Resolution Funding Corporation. The legislation would reduce this limit to 75 percent.

Section 110—This section gives the FDIC authority to increase deposit insurance premiums for both banks and thrifts beyond the current limit if necessary. It does not require or mandate that the FDIC increase premiums.

TITLE II

Section 201—This section would establish a Financial Institutions Fraud Unit, to be headed by a Special Counsel.

Section 202—This section outlines the responsibilities of the Special Counsel. The Counsel would supervise and coordinate investigations and prosecutions within the Department of Justice of criminal activity related to the financial services industry, ensure that federal statutes are used to the fullest authorized extent to recover the proceeds of illegal activities against the financial services industry, and ensure that adequate resources are available for the investigation and prosecution of fraud and other criminal activity related to the industry.

Section 203—This section authorizes the Attorney General to assign such personnel to the Fraud Unit as deemed appropriate to maintain of increase enforcement activity.

Section 204—This section of the proposal calls for Financial Institutions Fraud Task Forces to ensure that adequate resources are available in this area and a senior interagency group to identify the most significant S&L and bank fraud cases and focus resources where they are most needed. This group would include officials from both the Department of Justice and financial institution regulatory agencies.

Section 205—This section requires the Financial Institutions Fraud Unit to compile and collect data regarding investigations, prosecutions and enforcement proceedings and report semiannually to Congress on this date and its coordination activities.

Section 206—This section directs the Attorney General to make statistics of pending criminal matters, investigations, cases and defendants involving financial institutions available to Congress on at least a monthly basis.

By Mr. BENTSEN (for himself, Mr. BOREN, and Mr. DASCHLE):

S. 3113. A bill to amend the Internal Revenue Code of 1986 to repeal section 2036(c), to provide special valuation rules in certain cases involving estate freezes, and for other purposes; to the Committee on Finance.

SPECIAL VALUATION RULES IN CASES INVOLVING ESTATE FREEZES

● Mr. BENTSEN. Mr. President, I am introducing legislation today that will repeal section 2036(c) of the Internal Revenue Code and provide new rules to limit evasion of Federal estate and gift taxes by means of estate freezes.

The Omnibus Reconciliation Act of 1987 contained section 2036(c). The existing laws were designed to prevent tax avoidance. Unfortunately, the cure 3 years ago turned out to be worse than the disease. The complexity, breadth and vagueness of the new rules have posed an unreasonable impediment to the transfer of family businesses. As a result, many taxpayers, uncertain about the scope of current law, have refrained from making legitimate intrafamily transactions that have no tax avoidance purpose.

Last year in response to these problems, the Senate Finance Committee voted to repeal these rules and announced that we would study various alternative ways to prevent valuation abuses. Last year's repeal provision, however, was not enacted after all revenue-losing provisions were stripped on the Senate floor from the budget reconciliation bill. In the interim we have continued to prepare a replacement proposal that all parties would be comfortable with.

Senators BOREN and DASCHLE, in particular, have labored long and hard on this issue. I commend them on their efforts, as this bill would not have been possible without their assistance. Earlier this year, they chaired a joint hearing of the Subcommittee on Taxation and Debt Management and the Subcommittee on Energy and Agricultural Taxation. At that hearing the subcommittee members reviewed proposals from the American Bar Association and American College of Probate, the Tax Section of the D.C. Bar, the U.S. Chamber of Commerce, and the American Institute of Certified Public Accountants. In addition, they heard from a wide range of estate planners, small business representatives and the Treasury Department. All witnesses agreed that the current rules should be repealed. Most witnesses testified that these rules should be replaced with a rule that is targeted to valuation abuses. That is exactly what this bill does.

We have worked hard to balance taxpayers' concerns with our concern about transfer tax abuses. I'm convinced that this proposal is a reasonable approach to the problem. It prevents valuation abuses without dramatically restructuring the transfer tax system. Moreover, these rules will not trap unwary taxpayers who undertake common business transactions.

Mr. President, I ask unanimous consent that the text and a description of the bill be printed in the RECORD.

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

S. 3113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 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.

SEC. 2. REPEAL OF SECTION 2036(c).

(a) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS.—

(1) Section 2207B is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(B) by striking "subsections (a) and (b)" in subsection (c) (as so redesignated) and inserting "subsection (a)", and

(C) by striking "subsections (a), (b), and (c)" in subsection (c) (as so redesignated) and inserting "subsections (a) and (b)".

(2) Section 2501(d) is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of property transferred after December 17, 1987.

SEC. 3. SPECIAL VALUATION RULES.

(a) IN GENERAL.—Subchapter B of chapter 12 (relating to transfers) is amended by inserting after section 2512 the following new section:

"SEC. 2512A. VALUATION OF CERTAIN RETAINED RIGHTS.

"(a) APPLICATION OF SECTION.—

"(1) IN GENERAL.—Solely for purposes of determining whether a transfer described in paragraph (2) is a gift (and the value of such transfer), the valuation rules provided in subsection (b) shall apply.

"(2) APPLICABLE TRANSFERS.—For purposes of paragraph (1), a transfer is described in this paragraph if—

"(A) it is a transfer of an interest in a corporation or partnership to (or for the bene-

fit of) a member of the transferor's family, and

"(B) the transferor or an applicable family member retains immediately after the transfer an applicable retained interest.

"(b) VALUATION OF CERTAIN RETAINED RIGHTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the value of any right with respect to which an interest is treated as an applicable retained interest under subsection (c) shall be treated as being zero.

"(2) VALUATION OF CERTAIN RIGHTS.—Paragraph (1) shall not apply to any right conferred by an applicable retained interest if—

"(A) market quotations are readily available (on the date of the transfer) for such interest on an established securities market,

"(B) such interest is of the same class as the transferred interest, or

"(C) such interest would be of the same class as the transferred interest but for nonlapsing differences in voting power (or, in the case of an interest in a partnership, nonlapsing differences with respect to management and limitations on liability).

Subparagraph (C) shall not apply to any interest in a partnership if the transferor or an applicable family member has the right to alter the liability of the transferee of the transferred property.

"(3) CUMULATIVE DISTRIBUTION RIGHTS.—Paragraph (1) shall not apply to a distribution right with respect to which the distributions are cumulative and which has a preference upon liquidation, except that for purposes of determining the value of the transferred interest to which such right relates, the determination as to whether the cumulative distributions can reasonably be expected to be paid shall be made without regard to whether the person retaining the interest possesses control over the entity.

"(c) APPLICABLE RETAINED INTERESTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable retained interest' means any interest in an entity which confers—

"(A) a distribution right, but only if the interests in the entity held by the transferor and applicable family members immediately after the transfer described in subsection (a)(2) represent control of the entity, or

"(B) a liquidation, put, call, or conversion right.

"(2) CONTROL.—For purposes of paragraph (1)(A)—

"(A) CORPORATIONS.—In the case of a corporation, the term 'control' means the holding of interests representing at least 50 percent (by vote or value) of the stock of the corporation.

"(B) PARTNERSHIPS.—In the case of a partnership, the term 'control' means—

"(i) the holding of interests representing at least 50 percent of the capital or profits interests in the partnership, or

"(ii) in the case of a limited partnership, the holding of any interest as a general partner.

"(3) TREATMENT OF CERTAIN RIGHTS TO CONVERT PREFERRED INTO COMMON.—For purposes of this section—

"(A) IN GENERAL.—If an interest—

"(i) is a right to convert into a fixed number (or a fixed percentage) of the shares of the same class of stock as the stock described in subsection (a)(1) (or would be of the same class but for nonlapsing differences in voting power),

"(ii) is nonlapsing, and

"(iii) is subject to proportionate adjustments for splits, combinations, reclassifications, and similar changes in the capital stock,

then such interest shall not be treated as an applicable retained interest.

"(B) SIMILAR RULE TO APPLY IN CASE OF PARTNERSHIPS.—A rule similar to the rule of clause (i) shall apply in the case of partnerships.

"(d) DISTRIBUTION AND OTHER RIGHTS.—For purposes of this section—

"(1) DISTRIBUTION RIGHT.—The term 'distribution right' means—

"(A) in the case of a corporation, a right to distributions from the corporation with respect to its stock, and

"(B) in the case of a partnership, a right to distributions from the partnership with respect to the partner's interest in the partnership.

Such term does not include any right with respect to any interest in an entity which participates in the growth of the entity and which is not preferred as to distributions. Such term does not include any liquidation, put, call, or conversion right.

"(2) LIQUIDATION, ETC. RIGHTS.—

"(A) IN GENERAL.—The term 'liquidation, put, call, or conversion right' means any liquidation, put, call, or conversion right the exercise or nonexercise of which affects the value of the transferred interest.

"(B) EXCEPTION FOR FIXED RIGHTS.—The term 'liquidation, put, call, or conversion right' shall not include any liquidation, put, call, or conversion right which must be exercised at a specific time and at a specific amount.

"(e) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) MEMBER OF THE FAMILY.—The term 'member of the family' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) a lineal descendant of the transferor or the transferor's spouse, and

"(C) the spouse of any such descendant.

"(2) APPLICABLE FAMILY MEMBER.—The term 'applicable family member' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) the ancestor of the transferor or the transferor's spouse, and

"(C) the spouse of any such ancestor.

"(3) ATTRIBUTION RULES.—

"(A) INTEREST HOLDINGS.—An individual shall be treated as holding any interest to the extent such interest is held indirectly by such person through a corporation, partnership, trust, or other entity. If any individual is treated as holding any interest by reason of the preceding sentence, any transfer which results in such interest being treated as no longer held by such individual shall be treated as a transfer of such interest.

"(B) CONTROL.—For purposes of subsection (c)(2), an individual shall be treated as holding any interest held by a brother or a sister of such individual or by a child of such individual who has not attained the age of majority.

"(4) EFFECT OF ADOPTION.—A relationship by legal adoption shall be treated as a relationship by blood.

"(5) CERTAIN CHANGES TREATED AS TRANSFERS.—Except as provided in regulations, a redemption, recapitalization, contribution to capital, or other change in the capital structure of a corporation or partnership shall be treated as a transfer of an interest in such entity to which this section applies if the taxpayer or an applicable family member—

"(A) receives an applicable retained interest in such entity pursuant to such redemption, recapitalization, contribution to capital, or other change, or

"(B) under regulations, otherwise holds, immediately after the transfer, an applicable retained interest in such entity."

(b) VALUATION OF UNPAID CUMULATIVE DISTRIBUTIONS FOR ESTATE TAX PURPOSES.—Section 2031 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) VALUE OF CUMULATIVE BUT UNPAID DISTRIBUTIONS.—In the case of any interest in a corporation or a partnership which confers a distribution right (as defined in section 2512A(d)(1)) with respect to which the distributions are cumulative, the value of such interest for purposes of this chapter and chapter 12 shall include the lesser of—

"(1) the value of such distributions which have accumulated but remain unpaid as of the date of the death (determined without regard to any discount relating to time of payment), or

"(2) the portion of the liquidation value of the entity to which the decedent was entitled by reason of holding such interest."

(c) EXTENSION OF STATUTE OF LIMITATIONS.—Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If, after application of section 2512A, any transfer of property is required to be treated as a gift and shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item."

(d) REVISED VALUATION TABLES FOR CERTAIN INTERESTS.—Section 7520 (relating to valuation tables) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR CERTAIN INTERESTS INVOLVING FAMILY MEMBERS.—If—

"(1) an individual acquires any interest for life or a term of years in property with respect to which another individual in a generation lower than such individual holds a remainder interest, or

"(2) an individual acquires a remainder interest in property with respect to which another individual in a generation higher than such individual holds any interest for life or a term of years,

then, in determining the value of any such interest, subsection (a)(2) shall be applied by substituting '80 percent' for '120 percent'. For purposes of this subsection, generation assignment shall be determined under section 2651 (without regard to subsection (d) thereof)."

(e) VALUATION OF CERTAIN AGREEMENTS.—Section 2031, as amended by subsection (b), is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) VALUE OF CERTAIN RIGHTS AND RESTRICTIONS.—In determining the value of any property for purposes of this chapter and chapter 12, there shall not be taken into account any option, agreement, or other right to acquire or use the property at

a price less than the fair market value of the property (without regard to such option, agreement, or right), or any restriction on the right to sell or use such property, unless such option, agreement, right, or restriction meets each of the following requirements:

"(1) It is a bona fide business arrangement.

"(2) It is not a device to transfer such property to members of the decedent's family for less than adequate and full consideration.

"(3) Its terms are comparable to similar arrangements entered into by persons in an arms' length transaction."

(f) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 12 is amended by adding after the item relating to section 2512 the following new item:

"Sec. 2512A. Valuation of certain retained rights."

(g) STUDIES.—The Secretary of the Treasury shall conduct a study of—

(1) the prevalence and type of options and agreements used to distort the valuation of property for purposes of subtitle B of the Internal Revenue Code of 1986, and

(2) other methods using discretionary rights to distort the value of property for such purposes.

The Secretary shall, not later than December 31, 1992, report the results of such study, together with such legislative recommendations as the Secretary considers necessary, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers or acquisitions, and estates of decedents dying, after September 25, 1990.

(2) EXCEPTION.—For purposes of the amendments made by this section, with respect to property transferred before September 26, 1990—

(A) any failure to exercise a right of conversion,

(B) any failure to pay dividends, and

(C) any failure to exercise other rights specified in regulations,

shall not be treated as a subsequent transfer.

EXPLANATION OF S. 3113

PRESENT LAW

The estate and gift tax generally is imposed on the value of property passing by gift or bequest. This value is the price at which the property would change hands between a willing buyer and willing seller. The statute of limitations for the gift tax is three years from the filing of the gift tax return.

If a person holds a substantial interest in an enterprise and, in effect, transfers property having a disproportionately large share of the potential appreciation in such person's interest while retaining an interest in the income of, or rights in, the enterprise, then the transferred property is includible in such person's gross estate (sec. 2036(c)).

EXPLANATION OF PROVISIONS

In general

The bill repeals section 2036(c) retroactively and provides in its place rules generally intended to modify the gift tax valuation rules so as to value more accurately the initial transfer. These rules modify the valuation of specific retained rights in corporations and partnerships, the discount rate used in valuing split interests in property, the effect of restrictions upon the value of property, and the gift tax statute of limitations.

Preferred interests in corporations and partnerships

The bill provides rules for valuing certain rights retained immediately after the transfer by the transferor or applicable family members. The rules are premised on the assumption that the value of a residual interest in a corporation or partnership is determined by subtracting the value of retained preferred interests from the value of the whole. The rules apply to the transfer of a transfer of a residual interest to (or the benefit of) a family member.

In applying these rules, an individual is treated as holding amounts held through a corporation, partnership, trust or other entity. Except as provided in regulations, any redemption, recapitalization, contribution to capital, or other change in the capital structure of a corporation or partnership is treated as a transfer of an interest in such entity if an individual or applicable family member thereby receives a retained right affected by the bill.

Retained rights affected by the bill

A liquidation, put, call, or conversion right is valued at zero, unless such right must be exercised at a specific time and amount.

Any distribution right that is noncumulative or lacks a preference upon liquidation is valued at zero if the transferor and applicable family members retain control over the entity. For a corporation, control is defined as holding at least 50 percent (by vote or value) of the stock of the corporation. For a partnership, control generally is defined as holding at least 50 percent of the capital or profits interest in the partnership. In addition, for a limited partnership, any general partner in a limited partnership is deemed to have control. In determining control, an individual is treated as holding any interest held by a brother, sister, or minor child.

In valuing any cumulative distribution right having a preference upon liquidation, the determination of whether the cumulative dividends can reasonably be expected to be paid is made without regard to whether the person retaining the interest possesses control over the entity. For future transfers, however, the value of a right to cumulative distributions would include the lesser of (1) the value of the accumulated distributions as of the date of death valued without regard to any discount relating to time of payment or (2) the portion of the liquidation value of the entity to which the decedent was entitled. This rule assures that the amount of the accumulated dividends is subject to subsequent transfer tax notwithstanding assertions that such dividends will not be paid.

Exceptions

The bill does not apply to any right conferred by a retained interest if (1) market quotations are readily available for the interest on an established securities market, (2) such interest is of the same class as the transferred interest, or (3) such interest would be of the same class as the transferred interest but for nonlapsing differences in voting power (or, in the case of a partnership, nonlapping differences with respect to management and limitations on liability). The last exception applies only if the transferor or applicable family member does not have the right to alter the transferee's liability.

In addition, the bill does not apply to a right to convert into a fixed number (or a fixed percentage) of the shares of the same class as the transferred stock, which is nonlapsing, and subject to proportionate adjustments for splits, combinations, reclassifications and similar changes in the capital stock. This exception also applies to similar rights in partnerships.

Definitions

Liquidation, put, call or conversion right.—A liquidation, put, call or conversion right is any liquidation, put, call or conversion right the exercise or nonexercise of which affects the value of the transferred interest.

Distribution right.—A distribution right generally is a right to distributions with respect to stock or a partnership interest, as the case may be. It does not include a right that participates in the growth of the entity and is not preferred as to distributions or upon liquidation, because such right does not affect the value of the transferred interest. Nor does it include any liquidation, put, call, or conversion right.

Family.—A member of the family is, with respect to any transferor, the transferor's spouse, a lineal descendent of the transferor or the transferor's spouse, and the spouse of any such descendant. An applicable family member is, with respect to any transferor, the transferor's spouse, ancestors of the transferor and the spouse, and spouses of such ancestors.

Trusts and term interests in property

The bill provides that if an indivdiual acquires either (1) an interest for life or a term of years in property with respect to which another individual in a generation lower than the transferor holds a remainder interest, or (2) if an individual acquires a remainder interest in property with respect to which another individual in a generation higher than such individual holds any interest for life or a term of years, then the value of the life or a term of years is determined by using an interest rate equal to 80 percent of the Federal midterm rate for the month in which the valuation date falls. An individual who is a lineal descent of a grandparent of the transferor or transferor's spouse would be assigned a generation by comparing the number of generations between the grandparent and individual with the number of generations between the grandparent and transferor (or spouse).

Buy-sell agreements

The bill provides that the value of property for transfer tax purposes is determined without regard to any option, agreement or other right to acquire or use the property at less than fair market value or any restriction on the right to sell or use such property, unless the option, agreement, right or restriction is (1) a bona fide business arrangement, (2) not a device to transfer such property to members of the descedent's family for less than full and adequate consideration, and (3) its terms are comparable to similar arrangements entered into by persons in an arm's length transaction. The third requirement entails a showing that the agreement was such as one that would have been obtained in an arm's length bargain.

Statute of limitations

Under the bill, the gift tax statute of limitations does not close for a gift (determined after applying the special valuation rule) is such gift was not disclosed on a gift tax return.

Study

The bill requires that the Secretary of the Treasury conduct a study of the prevalence and types of options and agreements used to distort the transfer tax valuation of property and other methods using discretionary rights to distort the value of property for such purposes. The results of the study would be reported no later than December 31, 1992.

EFFECTIVE DATE

The bill generally is effective for transfers and acquisitions made, and decedents dying, after September 25, 1990. For property transferred prior to September 26, 1990, any failure to exercise an conversion right, pay dividends, or exercise other rights specified in regulations would not be treated as a transfer.●

● Mr. BOREN. Mr. President, I am pleased today to join with my colleagues Senator BENTSEN and Senator DASCHLE in introducing this legislation that will repeal section 203(c) of the Internal Revenue Code. At a time when we should be doing all that we can to help keep small family owned businesses afloat, section 2036(c), known as the estate freeze provision, poses a real threat to their survival.

This provision of the tax law makes it virtually impossible for families to keep their small businesses together from one generation to the next. It will force a trend under which bigger and bigger businesses gobble up smaller ones. In some cases, because of huge estate tax burdens, section 2036(c) forces small businesses to close their doors for good, throwing more and more people out to work.

Small family businesses provide the bulk of new jobs in our economy. The more people who have the experience of running their own businesses and having responsibility for them, the stronger our country will be. It is time to repeal this unfair portion of the Tax Code and help small family owned businesses for a change.

The legislation we are introducing today repeals section 2036(c) and instead provides for special valuation rules for estate freezes. The current law is overly broad and unintelligible to even the most sophisticated counsel, let alone counsel representing many small family owned business or farms throughout the United States. It is worth nothing that even supporters of 2036(c), few though they may be, concede that the 1987 law was clumsily fashioned. What they really mean is that virtually every knowledgeable observer has concluded that the new rules are simply unadministrable and not at all subject to a patch-up job of revision. While Treasury and other academics have suggested modifications, very few have come forward with hard and fast revisions. Given the tremendous burdens this rule places upon family owned small business, the only fair and meaningful course is to cleanly and clearly start over with repeal.

The current law affects many ordinary, day-to-day business transactions that almost everyone would agree should not be covered. This law clearly discourages the continuation of family businesses by almost requiring sales to outsiders. Bob Tutty, president of the Chouteau Telephone Co., Chouteau, OK, testified before my Finance Subcommittee at hearings I chaired on the repeal of section 2036(c) and said:

Often, the only reason an individual remains in a community is because they have inherited, or will inherit, a small family-owned business, such as a telephone company or a family farm. Passing on a business to the next generation is a common occurrence in a small town or rural community. The same kind of job opportunities that are available in an urban area don't exist in rural areas.

It is interesting to note that the legal permission of estate freezes is seen by opponents as a giant loophole simply because it permits the transmission of a family owned business from one generation to another without the imposition of confiscatory tax rates. The facts are that our entire Tax Code is designed to raise revenue and to fairly promote economic activity. With the exception of 2036(c), I think Congress has generally chosen to promote not discourage the growth and prosperity of some 20 million small, family owned businesses in this Nation.

I believe the most efficient way to solve this problem is to repeal section 2036(c) and start over. We should begin with a clean slate, only then can we begin to consider a much more narrow, focused and equitable alternative to the current section 2036(c). I believe the legislation we are introducing today is such an alternative. I urge my colleagues to join us in supporting this legislation.●

● Mr. DASCHLE. Mr. President, I am pleased to join my distinguished colleagues, Senator LLOYD BENTSEN, chairman of the Finance Committee, and Senator DAVID BOREN, in introducing legislation to repeal section 2036(c) of the Internal Revenue Code and replace it with a significantly more limited measure that is fairer to family businesses.

Last year, I introduced a bill, S. 849, that would repeal section 2036(c). At that time, I indicated that I would be open to consideration of a more limited substitute—one that was targeted strictly at the estate tax abuses that allegedly were occurring prior to enactment of section 2036(c). I also expressed an interest in working with Chairman BENTSEN in this endeavor.

After extensive review of alternative options, including meetings with small business groups and hearings on this issue in the Finance Committee, Senator BENTSEN and I have what we believe is a resonable alternative to current law section 2036(c).

Our bill addresses three major concerns I have about current law. First, current law takes an approach that throws the baby out with the bathwater. Consequently, a wide range of otherwise legitimate transactions are suspect under its provisions. The bill we are introducing today takes the opposite approach. It says, "These specifically identified abuses are impermissible." Period. In this way, family business owners who wish to pass the business on to their children gradually during their lifetimes can do so with a clear understanding of those means which are impermissible.

Second, under section 2036(c), the IRS can find a transaction unenforceable for estate tax purposes years, perhaps decades, after the transaction occurs. Like a number of other substitute proposals that have been advanced, our bill addresses potential abuses at the time the transaction occurs. This ensures that the appropriate amount of gift tax is paid at that time, leaving owners of businesses with confidence that the transaction will not be found invalid years later when they die and it is too late to do anything about it.

Finally, section 2036(c) is simply too ambiguous and confusing. Senator BENTSEN and I have sought to make our bill much simpler and straightforward. This should make IRS regulations pursuant to the measure much easier and faster to draft.

All of this is not to say that we are not open to further commentary on our proposal. We welcome the reactions of small business owners to our bill in the weeks ahead.

Meanwhile, I will be working closely with Senator BENTSEN to see that, at the very least section 2036(c) is repealed and that any measure that is put in its place, whether it is ours or some other similar measure, is narrowly targeted, fair and simple. Any substitute that does not fit these criteria is simply unacceptable.

I look forward to the comments and questions both of the small business community and my colleagues on the bill that Senator BENTSEN and I are introducing today.●

By Mr. MACK (for himself and Mr. BREAUX):

S. 3114. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests; to the Committee on Finance.

CANCER SCREENING INCENTIVE ACT

● Mr. MACK. Mr. President, I rise today, along with my friend and colleague Senator BREAUX, to introduce legislation to assist all Americans in the fight to prevent the 510,000 deaths which will occur this year alone as a result of cancer. The American Cancer Society estimates that 42,500 cancer

deaths which occurred in 1989 could have been prevented through early detection of the disease and prompt treatment.

The Cancer Screening Incentive Act of 1990 provides a tax incentive for all Americans to take advantage of the early detection procedures available to detect cancer at an early stage, thereby saving lives and reducing the associated long-term private and Federal health care costs.

This bill will provide an annual refundable tax credit—not a deduction, but a tax credit—of up to $250 to assist in offsetting the cost of cancer screening procedures unless they are covered by the taxpayers' health insurance policy. Moreover, this credit will be available to all taxpayers whether or not they itemize tax deductions. A new line will appear on all Federal income tax forms, including form 1040-EZ, to offer a credit for cancer screening procedures. Seeing this credit on all Federal income tax forms will help motivate taxpayers to undergo cancer screening procedures. It will also serve as an annual reminder that the Federal Government encourages all Americans to take preventive measures to fight cancer.

As you know, Mr. President, cancer knows no socioeconomic boundaries. Because this tax credit would be available to all taxpayers whether or not they itemize, this legislation will be of particular benefit to low-income families and individuals as this group has a disproportionately high rate of cancer and is less likely to have health care insurance. Additionally, by detecting cancer early, long-term health care costs associated with cancer will be substantially reduced, thereby relieving the burden normally placed on Medicare and Medicaid.

Under the provisions of this legislation, the Secretary of Health and Human Services, in consultation with cancer research and prevention organizations, shall develop the criteria by which taxpayers may take advantage of this credit. These criteria will specify which cancer early detection procedures are necessary, and at what age and how often they should be administered.

The need for Americans to take advantage of the medical technology to detect cancer is irrefutable. For example, in the time it takes me to complete this statement, at least one American will die of complications associated with cancer. Cancer will strike three out of every four American families. And 1 of every 10 American women will develop breast cancer.

This year alone, approximately 1 million Americans will be diagnosed with cancer. Of these 68,000 will be from my home State of Florida. As a matter of fact, Florida has the third highest rate of cancer cases in the United States. It is also a grim fact that Florida has the third highest rate of death from cancer of all States and U.S. territories.

But, Mr. President, we are making significant progress. At the beginning of this century, few cancer patients had any hope of long-term survival. In the early 1930's, less than one in five was alive at least 5 years after treatment. Today, there are more than 6 million living Americans who have a history of cancer, 3 million of whom were diagnosed 5 or more years ago. Even more significantly, the American Cancer Society estimates that 42,500 cancer deaths last year could have been prevented through early detection and treatment.

That is the heart of this proposed legislation. By providing a tax incentive for Americans to take advantage of cancer screening procedures, tens of thousands of lives will be saved each year.

Congress has long advocated early detection and preventative medicine. It's time we do something about it.

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. 3114

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 "Cancer Screening Incentive Act of 1990".

SEC. 2. FINDINGS.

The Congress finds:

(1) Studies have shown that early detection and screening for cancer can reduce cancer morbidity by as much as 50 percent for certain types of cancer.

(2) The American Cancer Society estimates that 42,500 cancer deaths that occurred in 1989 could have been avoided through early detection of the disease and prompt treatment.

(3) Physicians report that concern about the costs of early detection procedures is one of the main reasons for hesitating to order such procedures.

(4) Many low-income Americans lack comprehensive health insurance coverage and the majority of existing health insurance policies do not adequately cover the costs of cancer early detection and screening procedures.

(5) Studies indicate that the expense of cancer early detection and screening procedures are more than compensated for by long-term savings in health care expenditures.

(6) Demographic forcasts predict that the elderly population will double by the year 2020. Since cancer mortality and incidence rates rise dramatically with age, cancer prevention in the elderly population will become increasingly important.

SEC. 3. CANCER SCREENING CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CANCER SCREENING TEST CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this substitle for the taxable year an amount equal to any amount paid or incurred by the taxpayer for expenditures (not compensated by insurance or otherwise) for any cancer screening test, which is included in the list under subsection (d), of any eligible individual for the taxable year.

"(b) LIMITATION.—The amount of the credit allowable under subsection (a) with respect to any eligible individual shall not exceed—

"(1) $250, or

"(2) $200 in the case of a taxpayer with a taxable income for the taxable year in exess of the maximum rate of taxable income to which the 15-percent rate applies under the applicable table under section 1.

"(c) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means—

"(1) the taxpayer,

"(2) the taxpayer's spouse, or

"(3) any individual for whom the taxpayer is allowed an exemption under section 151.

"(d) QUALIFYING CANCER SCREENING TEST.—

"(1) IN GENERAL.—For purposes of this section, the Secretary, after consultation with the Secretary of Health and Human Services and cancer research and prevention organizations, shall publish, not later than December 31, 1990, and annually thereafter, a list of cancer screening tests which qualify for the credit allowable under subsection (a).

"(2) CANCER SCREENING TESTS.—The list of cancer screening tests which qualify under subsection (a) shall include at least the following tests:

"(A) Mammogram for female breast cancer.

"(B) Digital rectal examination and proctosigmoidoscopy for colon and rectum cancer.

"(C) Rectal examination and prostate ultrasound examination for prostate cancer.

"(D) Pap test for uterine cancer.

"(E) Pelvic examination for ovarian cancer.

"(e) MANNER AND TIME FOR TAKING CREDIT.—The Secretary shall provide a line for taking the credit allowed under subsection (a) on the page of the return of tax imposed by this subtitle bearing the taxpayer's signature."

(b) COORDINATION WITH DEDUCTIONS FOR MEDICAL EXPENSES.—Section 213(e) of such Code (relating to exclusion of amounts allowed for care of certain dependents) is amended by inserting "or section 35" after "section 21".

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting:

"Sec. 35. Cancer screening test credit.

"Sec. 36. Overpayments of tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.●

● Mr. BREAUX. Mr. President, I am proud to join my friend and colleague, Senator MACK, in introducing the Cancer Screening Incentive Act of 1990.

This legislation is simple. We would give a tax credit of up to $250 to taxpayers and their dependents who undergo certain cancer screening and

early detection procedures. We hope to encourage many Americans who are at risk of certain kinds of preventable and treatable cancers to go to their doctors and have tests done.

The American Cancer Society estimates that about 40,000 of the cancer deaths occurred in 1989 could have been avoided through early detection and proper treatment. Currently, due to the high expense of certain routine screening procedures, and the lack of insurance that covers the costs of early detection procedures, many Americans do not follow the guidelines suggested by the American Cancer Society and the National Cancer Institute.

In addition to saving tens of thousands of lives, proper cancer screening and treatment procedures would generate long term saving to the Federal Government's health care programs and to private payors of the costs of health care.

In Louisiana this year an estimated 9,100 people will die from cancer and 18,600 new cases will be reported. Many of those who might otherwise die could be saved by undergoing some simple early detection tests as part of routine visits to their doctor's office. We hope to encourage people who do not have insurance coverage or otherwise could not afford to pay for screening to go in for testing.

Mr. President, I want to thank Senator MACK for his excellent work on this issue, as well as the American Cancer Society for their generous advice and assistance.●

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3115. A bill to authorize the Secretary of Transportation to prohibit by regulation, certain aircraft overflights of areas which have been declared disaster areas; to the Committee on Commerce, Science, and Transportation.

PROHIBITING OVERFLIGHT OF DECLARED DISASTER AREAS

Mr. AKAKA. Mr. President, on behalf of myself and Senator INOUYE, I am introducing legislation today that would require the Secretary of Transportation, for safety and humanitarian reasons, to issue regulations to prohibit or otherwise restrict aircraft flights over declared national disaster areas. This measure is the first of several initiatives that I will be proposing to address some of the major problems that have arisen in connection with the ongoing volcanic disaster on the island of Hawaii.

Mr. President, the need for this legislation became evident to me after listening to testimony presented at a recent Senate Governmental Affairs Committee oversight hearing that I chaired in Pahoa, HI, on the conduct of Federal relief efforts in connection with the Kilauea Volcano eruption.

As my colleagues are aware, on May 18 the President declared the Kalapana area of the Big Island a national disaster area. The disaster declaration was made retroactive to January 1983, the date on which the current Kilauea Volcano eruption began, making residents of the affected area eligible for Federal disaster assistance. Because of the ongoing nature of the emergency, the declaration was kept open ended to accommodate those who may experience lava-related losses in the future. Thus far, in the course of nearly 8 long years, more than 170 homes have been destroyed, and tens of millions of dollars in personal property and public infrastructure lost.

The committee found that despite the unique problems presented by the Kalapana disaster, the Federal, State, and local disaster relief response to the emergency has been nothing short of outstanding. The Federal Emergency Management Agency, the U.S. Geological Survey, the Small Business Administration, the National Park Service, the State and county civil defense offices, and the Hawaii county government have worked closely together to achieve a remarkable level of coordination in coping with the emergency.

However, Mr. President, one problem that authorities have not addressed is the problem of tour aircraft overflights. At the August 22 hearing, the committee heard testimony about the serious aggravation caused by tour helicopter operators who, without regard to the sensibilities of families witnessing the inundation of their homes by lava, swoop low to obtain a closer view of events for their passengers.

Mr. President, this practice is unconscionable. It smacks of profiteering at the expense of other people's misery—people experiencing an ineffable sense of loss. Many former residents of Kalapana lived in the community for an unusually long period of time; indeed, some native Hawaiian families can trace their roots in the area back many generations before the founding of the Republic. Thus, the destruction of their houses and lands represents more than the simple loss of property—it represents the loss of an entire way of life as well as of a unique and irrecoverable facet of Hawaii's heritage. Thus, the intrusion of roaring helicopters into their state of mourning is almost a barbaric act.

Mr. President, several witnesses at the hearing compared the emotional trauma experienced by Kilauea's victims with that experienced by individuals coping with a lingering, fatal illness in a close friend or family member. Mr. Harry Kim, the Hawaii County civil defense administrator who has become a local hero for his coordination of the disaster relief effort, drew the following analogy:

> If someone closest to you is dying in a hospital bed and someone comes in there and pushes you aside and makes a lot of noise as you are trying to prepare for a tragedy in regards to cameras or whatever, and literally pushes you aside physically and disregards everything you are going through * * * is * * * I think what some of the residents have gone through during times when the helicopter service has come.

Mr. President, the nuisance of low-flying aircraft is not confined to the Kalapana region—it is a growing problem throughout the State. In the last few years, I have received dozens of complaints about unwelcome aircraft intrusions in residential areas and national and State parks. A number of approaches have been suggested to solve this vexing problem, including voluntary restraints and airspace regulations. Unfortunately, none of these solutions has been practical: some tour pilots often ignore voluntary restraints, and the State lacks the authority to promulgate airspace rules. Meanwhile, the Federal Aviation Administration, which claims the sole right to regulate airspace, has been reluctant to issue restrictive airspace regulations, citing the agency's traditional position that it regulates airspace only for safety-related reasons.

Mr. President, of all the nuisances that low-flying helicopters and planes present, profiting at the expense of disaster victims is the least acceptable. It is an outrage that cannot be tolerated. While I recognize that some tour operators have at times provided valuable assistance in evacuating residents and in monitoring volcanic activity, and that a responsible air tour industry can be a healthy component of Hawaiia's tourist industry, I nevertheless believe that, at least with respect to disaster areas, air tour flights should and must be restricted.

Apart from simple humanitarianism, it is obvious that flights over disaster areas, particularly areas covered by active lava flows, pose significant hazards to aircraft that may not be present elsewhere. For example, intense heat produced by lava may create dangerous updrafts. In addition, toxic volcanic gases such as sulfuric acid-based "vog" and hydrochloric acid-based "laze" can incapacitate pilots and passengers alike. Finally, there is the difficulty of rescue from hot lava fields in the event of a crash.

Mr. President, for these humanitarian and safety reasons, I urge my colleagues to support reasonable aircraft restrictions in national disaster areas. I ask for their support for this important legislation.

By Mr. HOLLINGS:

S. 3116. A bill to amend title XIX of the Social Security Act to provide that infants born to Medicaid eligible women are continuously eligible for

benefits under such title for 1 year; to the Committee on Finance.

MEDICAID ELIGIBILITY FOR CERTAIN INFANTS

● Mr. HOLLINGS. Mr. President, I rise to introduce an amendment to title XIX of the Social Security Act which shall assure continuity of Medicaid coverage for eligible infants during the critical first year of life.

In 1986, this body approved legislation to permit States the option of providing Medicaid only—without regard to eligibility for AFDC—to women and infants up to 100 percent of the Federal poverty level. Though thinking of Medicaid as health insurance has become accepted, in 1985 it was viewed as "welfare," as there was no "Medicaid only" program and one could obtain Medicaid coverage only through other programs that were viewed as welfare—AFDC, SSI. It was the view of many of us in 1986 that this Nation's dismal infant mortality rate justified a break between Medicaid and AFDC. Establishment of 1-year's coverage for infants in 1986 was not arbitrary, but was based on sound medical advice from the American Academy of Pediatrics, the Institute of Medicine, the National Academy of Sciences, and others of the first year's criticality in child development. This proposal originated with and had the full support of the Nation's Governors. Indeed, the National Governors' Association worked hard for its passage. We calculated the cost of providing this critical coverage and made those funds available in subsequent budgets and reconciliation bills.

Since then we have expanded the benefit—coverage has been made mandatory, eligible income levels have been raised, and the age limit has been expanded. Indeed, there are numerous bills pending to further extend this benefit.

It was the intent of those of us who initiated the benefit and those who voted for it that low-income women would be covered for prenatal care and 60 days postpartum and that the infants born to these women would be covered by Medicaid for a full year. Mr. President, I was astounded to learn that many infants were not receiving this benefit to which they are entitled because a peculiarity in the authorizing language requires that a new Medicaid application be made and approved within 60 days after birth. The wording of section 1902(e) with respect to infant eligibility would lead one to the conclusion that it was also the intent of the framers that a full year would be covered. Let me review the language in title XIX, section 1902(e), of the Social Security Act:

(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such a plan on the date of such birth and to remain eligible for such assistance for a period of 1 year, so long as the child is a member of the woman's household and the woman remains eligible for such assistance. During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number—unless the State issues a separate identification number for the child before such period expires.

So, how long is the infant eligible? For a year? No, because what we so generously bestow in (4), we take away in (5).

(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, through the end of the month in which the 60-day period—beginning on the last day of her pregnancy—ends.

Section (6) goes on to assure the woman's coverage for 60 days postpartum even if during that time her income increases beyond the maximum provided for in the plan. And (7) assures continuous coverage for inpatient services for children who exceed the maximum age provided for the plan—more than 1 year old.

I find it most difficult to believe that the framers of this law deliberately created such a large crack for infants to fall through at only 60 days of age—not when we so carefully covered the mother and the child over one. And further program expansions would tend to support this view. Why increase the age of coverage or raise the income limit when so many babies are falling out of the system at 2 months? Wouldn't it make a lot more sense to assure that infants survive the first critical year of life? Yes, and I have to believe that the authors of the expansions that have taken place since 1986 believed that the first year was covered.

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

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

S. 3116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUOUS ELIGIBILITY FOR MEDICAID BENEFIT PROVIDED FOR INFANTS BORN TO MEDICAID ELIGIBLE WOMEN FOR A PERIOD OF 1 YEAR.

(a) IN GENERAL.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396(e)(4)) is amended—

(1) in the first sentence, by striking "and the woman remains eligible for such assistance" and inserting "and without regard to whether or not the woman remains eligible for such assistance"; and

(2) in the second sentence—

(A) by striking "unless" and inserting "if"; and

(B) by striking "expires" and inserting "expires no new application for such child shall be required".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to eligibility determinations for calendar quarters beginning on or after January 1, 1991.●

By Mr. MOYNIHAN:

S. 3118. A bill entitled the "Medical Drug Dependency Treatment Coverage Act of 1990"; to the Committee on Finance.

MEDICAL DRUG DEPENDENCY TREATMENT COVERAGE ACT

● Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill which would codify current administration policy with regard to the reimbursement by the Federal Medicaid Program of treatment services for crack cocaine addiction.

One year ago today, I took to the floor of this Chamber to introduce S. 1673, the Drug Abuse Treatment Act of 1989. That bill was, in large part, a response by this Senator to my inability to get a clear response to the question of whether Medicaid would reimburse for the treatment of crack cocaine addiction. We did know that Medicaid would cover methadone for heroin addiction. But since a pharmacological treatment for crack cocaine has not become generally available, we were in the position of being told that since crack addicts had no treatment, crack addicts had no disease.

The following day, I announced my intention to offer my bill as an amendment to the then pending bill S. 1711, the National Drug Control Strategy Act of 1989. In short order, on October 3, 1989, I offered a modified version of the original proposal, and with the cosponsorship of our distinguished minority leader Senator DOLE, the Senate unanimously passed amendment 919. The operative section of that amendment stated:

* * * Treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment.

The Senate unanimously endorsed the proposition that Medicaid should and would reimburse any eligible man or woman who sought treatment for addiction to crack cocaine. This no

small accomplishment, however, was all but lost on those whose responsibility it is to see to it that the principles of the Anti-Drug Abuse Act of 1988—Public Law 100-690—be implemented fully. To wit section 2012 of that act entitled "Purposes":

It is the purpose of this subtitle * * * to increase to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

I have taken to the Senate floor, time and again, to remind my colleagues of just what it was we sought to achieve in that 1988 law. Law, Mr. President. Statute. I will not again consume the time of the Senate recalling the principles of demand and supply reduction efforts in that act. The record is replete with such explanations. However, I will state that the administration wavered. Indeed, the Office of National Drug Control Policy, which we created in the 1988 law, and its director failed to answer a call I put to them before the Senate Judiciary Committee on December 12, 1989, to outline their position on my proposal—I should say the proposal of the distinguished Republican Leader and myself—that Medicaid reimburse the treatment of crack cocaine addiction.

On December 14, 1989, we had our answer. The Watertown Daily Times reported the response of Director Bennett: "He had not made up his mind" about Medicaid funding for drug treatment. Silence, Mr. President. Silence.

On May 23, 1990, I received the kind of reasoned and professional response we have come to expect from our most capable Administrator of the Health Care Financing Administration, Dr. Gail Wilensky, to the question we had put to the administration 6 months before. I would ask unanimous consent that this letter, the first of two, appear at the conclusion of my remarks.

Dr. Wilensky's letter clarifies—for the first time—for us and for the States, the extent to which the Federal Medicaid Program will pay for the treatment of crack cocaine addiction. Her statement that: "It is simply not true that Federal Medicaid policy will not permit payment to hospitals for treatment of crack cocaine addiction" was a most welcome pronouncement. Even more so her statement that:

The Medicaid program offers a wide range of benefits which may be of use to crack cocaine addicts. Beyond payment for inpatient and outpatient hospital treatment which are mandatory benefits, States also have the option to include clinic and rehabilitative services in their Medicaid benefit packages. These could range from short episodes to full day treatment programs.

Mr. President, the States did not know this. Perhaps now, with the passage of the bill I introduce today, they will.

At a hearing before the Senate Committee on Finance on June 28, which addressed the tragedy of crack babies, Secretary Sullivan agreed with the position described in Dr. Wilensky's letter. At the hearing, I asked the Secretary to ask Dr. Wilensky to call Dr. Bennett and explain the Health Care Financing Administration's position. Dr. Sullivan replied that he would call Dr. Bennett himself. The Secretary, however, left that hearing for a press conference at the White House at which Dr. Bennett once again, criticized the use of Medicaid moneys for drug treatment. Indeed, treatment period.

I would now take a moment to inform my colleagues that their patience has been rewarded. I have harangued a bit. But this has been a matter of simple yet great importance. Those in Government charged with the health policy of this Nation, and for administering its programs cannot, indeed, must not, be permitted to cloak in deception what Federal law states with regard to any issue, and in particular, this one. Drug addiction is a disease of the brain. It must be treated as such. What services exist must be readily available to eligible individuals who seek treatment.

On August 20, 1990, Dr. Wilensky again wrote to me. This time enclosing a letter she had directed to be sent to all State Medicaid directors, outlining the services that the Federal Medicaid Program would reimburse for the treatment of substance abuse, and specifically, crack cocaine addiction. This is a matter of some consequence. Problems remain. Limitations exist. Those we in Congress, can address. But the administration has now clearly delineated for the States the services available to them for the treatment of crack addiction.

The bill I introduce today, would codify in the statute the two letters from the Health Care Financing Administration, thereby making permanently and explicitly clear to the States, the scope of the Federal Medicaid Program with regard to the variety of services and reimbursement for substance abuse treatment.

Mr. President, I would ask unanimous consent that the bill in its entirety, two letters from Dr. Wilensky, and several press accounts, be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

S. 3118

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 "Medicaid Drug Dependency Treatment Coverage Act of 1990".

SEC. 2 MEDICAID COVERGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (21) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) alcoholism and drug dependency treatment services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t) The term 'alcoholism and drug dependency treatment services' means inpatient and outpatient alcoholism and drug dependency treatment services (including counseling) provided by a hospital or by any other entity authorized by the State to provide such treatment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to alcoholism and drug dependency treatment services furnished on or after the date of the enactment of this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH CARE FINANCING ADMINISTRATION,

Washington, DC, May 23, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to convey our concern that there may be some misunderstanding about Medicaid coverage for crack cocaine addiction. The intent of this letter is to clarify what coverage does exist under the Medicaid program. To the extent individuals are eligible for Medicaid and need inpatient hospital care, it is covered under the Medicaid program. For mandatory Medicaid benefits, such as inpatient hospital services, our regulations explicitly prohibit States from using a recipient's diagnosis, type of illness, or condition as the basis for arbitrary limiting or denying coverage.

A State may determine that the hospital setting is not appropriate for the treatment of certain conditions. However, it is simply not true that Federal Medicaid policy will not permit payment to hospitals for treatment of crack cocaine addiction.

In fact, the Medicaid program offers a wide range of benefits which may be of use to crack cocaine addicts. Beyond payment for inpatient and outpatient hospital treatment which are mandatory benefits, States also have the option to include clinic and rehabilitative services in their Medicaid benefit packages. These services provide outpatient care that could range from short episodes to full day treatment programs.

Although the above services are allowable for all States, they are optional. Each State designs its own program, building on the basic Federal requirements. States establish their own regulations and instructions and construct eligibility, coverage, and payment rules with which they operate their programs. Thus, general statements about Medicaid must be quite general to be applicable across the board.

Another difficulty in discussing an issue like treatment of crack cocaine addiction is

that Title XIX of the Social Security Act provides coverage for generic services rather than coverage for specific diagnoses or conditions. Thus, when a specific condition is discussed, it is necessary to determine the appropriate services the State Medicaid program offers that can be used to treat the symptoms of the condition. In raising the question of hospital care and crack cocaine addiction, the issue must be posed as follows—what, if any, type of inpatient hospital care is medically appropriate for the treatment of crack cocaine addiction? This is a question that must be answered by the individual State in developing its Medicaid coverage package.

Medicaid has one statutory restriction that is of particular relevance to the coverage of substance abuse services. Title XIX precludes the payment for services to individuals between the ages of 22 and 65 in institutions for mental diseases (IMDs). Under the International Classification of Diseases, Clinical Modification (ICD-9-CM), alcohol and drug abuse are classified as mental disorders. Consequently, facilities that exclusively treat psychiatric or substance abuse disorders are considered by Medicaid as IMDs. This restriction in Medicaid coverage relates to the long standing State role in supporting mental health and substance abuse treatment services and operating State mental institutions.

While recognizing the States' primary role in providing services in these areas, the Federal government does target substantial support to States for the prevention and treatment of substance abuse through many activities, most notably the Alcohol, Drug Abuse, the Mental Health Services Block Grant. This grant program provides funds to the States to enhance and expand alcohol, drug abuse, and mental health services according to individual State needs. In response to the National Drug Control strategy, the drug abuse portion of this block grant has been significantly increased this year. The Alcohol, Drug Abuse, and Mental Health Administration also has funds available through several categorical programs which target pregnant women and their infants as well as high-risk populations.

Like you, Dr. Sullivan and I remain strongly committed to fighting drug abuse and reducing the demand for drugs. Should you or your staff require further information on this matter please contact me or Thomas Gustafson, Acting Director, Office of Policy Analysis, of my staff. He may be reached at (202) 245-0500. We welcome your interest in this area, and look forward to working with you on matters of mutual concern.

Sincerely.

GAIL R. WILENSKY, Ph.D.
Administrator.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH CARE FINANCING ADMINISTRATION,
Washington, DC, August 20, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am responding to your letter of July 16 regarding current Medicaid payment for drug abuse treatment. You indicated that my recent explanation of the Medicaid policy was "a most welcome pronouncement." I assure you that Secretary Sullivan agrees with the position described in my letter to you.

As you know, we share your concerns about drug addiction and related problems. We thought it would be helpful to remind States of the extent to which the Medicaid program could be used to help persons with these conditions. Therefore, we sent letters to each State Medicaid Director reminding them of services available under the program. A copy of that letter is enclosed. I hope you will find it informative.

We appreciate your continued interest in this important national issue. Please be assured that we support all efforts to resolve this problem.

Sincerely,

GAIL R. WILENSKY,
Administrator.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH CARE FINANCING ADMINISTRATION,
Baltimore, MD, August 2, 1990.

ALL STATE MEDICAID DIRECTORS: The Medicaid program is an excellent resource in the national effort to deal with drug addiction and related problems. Because Medicaid's benefits are described in terms of specific services rather than the conditions to be treated, there are often misunderstandings as to the extent that the Medicaid program's benefits can help persons with drug addiction and related problems. I am writing to review the ways that available Medicaid benefits relate to the treatment of these conditions in order to ensure that all States are aware of these possibilities.

A number of primary care services may be used, including physicians' services, clinic services, and pharmaceuticals (e.g., methadone). Additionally, services appropriate for treating addiction may be provided (1) by home health agencies, (2) under home and community-based services waivers, and (3) as part of the EPSDT benefit constellation. A number of States have also used freedom of choice waivers or exceptions to their State plans to implement managed care programs targeted to substance abuse. Case management may be used to coordinate the needed services, and special day treatment programs may be established that combine needed therapy, counseling and other services.

Inpatient hospital benefits may be used for acute treatment of symptoms, detoxification and drug-related medical complications. Rehabilitation services may be provided in a wide variety of settings. These include outpatient programs in hospitals and clinics, and inpatient programs located in nursing facilities, psychiatric hospitals, and special units in general hospitals. Rehabilitation services may also be provided in settings that are not Medicaid participating facilities.

Although payment restrictions relating to institutions for mental diseases (IMDs) can affect some inpatient programs for treating chemical dependency, it is important to remember that these restrictions do not apply to any facility that has less than 17 beds. For this reason, it may be advantageous to set up this type program in smaller facilities, even though room and board payment would not be made unless it is a participating facility. Optional IMD benefits are also available in psychiatric facilities for individuals under age 21 and for individuals age 65 and over regardless of the size of the facility.

There are many State and local programs funded by the Office of Substance Abuse Prevention, National Institute on Drug Abuse, and Health Resources and Services Administration. You may find it worthwhile to collaborate with these programs. If your State is interested in expanding Medicaid services in the area of substance abuse treatment, we can support this effort by responding to questions as they arise in developing new programs. Please contact your HCFA Regional Office.

Sincerely,

ROZANN ABATO,
Acting Director, Medicaid Bureau.

[From the New York Times June 22, 1990]

THE SENATOR'S RIGHT ON DRUG TREATMENT

The Senator accuses the drug czar of seeking the "political rewards to be had for tough-guy talk." The drug czar calls the Senator's attack "bilious, dyspeptic, orotund."

What's going on? It's the latest flare-up in a dispute over financing for drug treatment between Daniel Patrick Moynihan and William Bennett, the Director of National Drug Control Policy. Senator Moynihan makes the better case.

The New York Democrat believes that Washington should spend as much on drug treatment as on law enforcement. Treatment programs around the country are desperately underfinanced; more money would make a big dent in the demand for drugs. The 50-50 recommendation was written into the 1988 omnibus drug bill.

Yet last year the Bush Administration, which Mr. Bennett as drug czar, continued the old pattern of spending—73 percent for law enforcement and only 27 percent for treatment. The language of the 1988 law, drug policy officials say, wasn't binding.

Mr. Moynihan responded with an amendment providing more drug treatment money from Medicaid, the Federal health insurance for the poor. The extent to which the program now covers substance abuse treatment in hospitals and clinics remains unclear, and it won't cover treatment in residential programs of the sort considered most effective for crack addicts. The Moynihan amendment, passed by the Senate late last year, would ease those restrictions.

Yet Mr. Bennett continues to resist, suggesting that such funds might be better provided through the current setup of block grants to states. Others worry that the amendment's cost, estimated at $700 million a year, is prohibitive.

But block grants, requiring annual Congressional approvals and further red tape at the state level, are less reliable than a Medicaid change, which would guarantee ongoing Federal support. Such a guarantee could spur the rapid development of drug treatment programs.

Is $700 million too much? If that kind of spending looks unrealistic this year, why not at least begin by allowing Medicaid funds for drug treatment of poor women who are pregnant? That would be an affordable investment—focused where it would do the most good.●

ADDITIONAL COSPONSORS

S. 1815

At the request of Mr. BOSCHWITZ, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. AKAKA], the Senator from Washington [Mr. GORTON], the Senator from Nebraska [Mr. EXON], the Senator from Indiana [Mr. COATS], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from South Carolina [Mr. THURMOND], were

added as cosponsors of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 2159

At the request of Mr. BOSCHWITZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2159, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2614, a bill to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2729

At the request of Mr. CHAFEE, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Connecticut [Mr. DODD], were added as cosponsors of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2822

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Hawaii [Mr. AKAKA], and the Senator from Florida [Mr. GRAHAM], were added as cosponsors of S. 2822, a bill to promote and strengthen aviation security, and for other purposes.

S. 2983

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2983, a bill to amend the Internal Revenue Code of 1986 to clarify the application of the passive foreign investment company rules, to repeal the export trade corporation rules, and for other purposes.

S. 2989

At the request of Mr. HEINZ, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2989, a bill to amend title XIX of the Social Security Act to provide for an expansion of medicaid benefits to low-income pregnant women and children, and to raise the tax on cigarettes to fund such medicaid expansion.

S. 3021

At the request of Mr. DOLE, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 3021, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 3025

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Florida [Mr. GRAHAM], and the Senator from South Carolina [Mr. HOLLINGS], were added as cosponsors of S. 3025, a bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization; and for other purposes.

S. 3026

At the request of Mr. GLENN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 3026, a bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization.

S. 3027

At the request of Mr. GLENN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 3027, a bill to amend the Internal Revenue Code of 1986 to exclude from income the compensation received for active service as a member of the Armed Forces of the United States in a dangerous foreign area.

S. 3028

At the request of Mr. GLENN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 3028, a bill to amend title 39, United States Code, to authorize members of the Armed Forces to post mail without charge while involved in Operation Desert Shield or similar operations.

S. 3051

At the request of Mr. PRESSLER, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 3051, a bill to reduce the pay of Members of Congress corresponding to the percentage reduction of the pay of Federal employees who are furloughed or otherwise have a reduction of pay resulting from a sequestration order.

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-33," and to commemorate the Ukrainian famine of 1932-33 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the name of the Senator from Texas [Mr. BENTSEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 362

At the request of Mr. HATCH, the names of the Senator from Indiana [Mr. COATS], the Senator from Indiana [Mr. LUGAR], the Senator from Montana [Mr. BURNS], the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. GORTON], the Senator from Kansas [Mr. DOLE], the Senator from Utah [Mr. GARN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Idaho [Mr. MCCLURE], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New Mexico [Mr. DOMENICI], the Senator from Delaware [Mr. ROTH], the Senator from Alaska [Mr. STEVENS], the Senator from Wyoming [Mr. SIMPSON], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from California [Mr. WILSON], the Senator from Maine [Mr. COHEN], the Senator from Vermont [Mr. JEFFORDS], the Senator from North Carolina [Mr. HELMS], the Senator from Missouri [Mr. BOND], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Florida [Mr. MACK], the Senator from Iowa [Mr. GRASSLEY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Oklahoma [Mr. NICKLES], the Senator from Michigan [Mr. RIEGLE], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. SASSER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRAD-

LEY], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Hawaii [Mr. AKAKA], the Senator from Maine [Mr. MITCHELL], the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from Alabama [Mr. HEFLIN], the Senator from Rhode Island [Mr. PELL], the Senator from Illinois [Mr. DIXON], the Senator from Maryland [Ms. MIKULSKI], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 362, a joint resolution to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Montana [Mr. BURNS], the Senator from South Carolina [Mr. THURMOND], the Senator from Massachusetts [Mr. KERRY], the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. ROTH], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 366

At the request of Mr. COCHRAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 366, a joint resolution to designate March 30, 1991, as "National Doctors Day."

SENATE JOINT RESOLUTION 367

At the request of Mr. BOND, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 367, a joint resolution to designate the week of November 11 through 17, 1990, as "Gaucher's Disease Awareness Week."

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 141

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Concurrent Resolution 141, a concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Missouri [Mr. DANFORTH], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Florida [Mr. MACK], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 328—COMMENDING JONATHAN R. STEINBERG FOR HIS SERVICE TO THE SENATE

Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. BYRD, Mr. SIMPSON, Mr. MURKOWSKI, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. THURMOND, Mr. SPECTER, and Mr. JEFFORDS) submitted the following resolution; which was considered and agreed to:

S. RES. 328

Whereas Jonathan R. Steinberg has rendered faithful service to the United States Senate for twenty-one and one-half years, including service as Counsel to the Veterans' Affairs Subcommittee of the Committee on Labor and Public Welfare from 1969 to 1971, Counsel to the Subcommittee on Railroad Retirement of the Committee on Labor and Public Welfare from 1971 to 1973, Counsel to the Special Subcommittee on Human Resources of the Committee on Labor and Public Welfare from 1971 to 1977, Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1977 to 1981, Minority Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1981 to 1987, and Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1987 to 1990;

Whereas Jonathan R. Steinberg discharged the important duties and responsibilities of each of the foregoing positions with great distinction and diligence and with genuine concern for the individual Americans whose lives were affected by his efforts;

Whereas Jonathan R. Steinberg has consistently rendered valuable service to the Senate in the development of legislation to establish, preserve, and improve programs carrying out the Nation's responsibilities to its veterans and their families and has also made great contributions to the development of programs to benefit Americans in all walks of life, including especially persons with disabilities, a wide array of disadvantaged and needy individuals, and children;

Whereas Jonathan R. Steinberg helped guide the Committee on Veterans' Affairs through an extraordinarily active, challenging, and productive period of its history, during which it successfully proposed major advances in veterans' benefits and services;

Whereas the loyalty, judgment, creativity, perseverance, and continuing dedication of Jonathan R. Steinberg have earned for him great respect, gratitude, and affection: Now, therefore, be it

Resolved, That the Senate of the United States commends Jonathan R. Steinberg for his faithful and outstanding service to the Senate and the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jonathan R. Steinberg.

AMENDMENTS SUBMITTED

FAMILY PLANNING AMENDMENTS

PRESSLER (AND OTHERS) AMENDMENT NO. 2884

Mr. PRESSLER (for himself, Mr. DOMENICI, Mr. SYMMS, Mr. GRAHAM, Mr. MCCAIN, Mr. HUMPHREY, Mr. COHEN, Mr. GRASSLEY, Mr. WARNER, Mr. PACKWOOD, Mr. KASTEN, and Mr. CONRAD), proposed an amendment to the bill (S. 110) to revise and extend the programs of assistance under title X of the Public Health Services Act, as follows:

At the end of the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitiated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Personnel Management may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of Members of Congress, all reductions which would have occurred if this section has been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

DASCHLE (AND OTHERS) AMENDMENT NO. 2885

Mr. DASCHLE (for himself, Mr. ADAMS, Mr. DECONCINI, Mr. KENNEDY, and Ms. MIKULSKI) proposed an amendment, which was subsequently modified, to amendment No. 2884 proposed by Mr. PRESSLER (and others) to the bill S. 110, supra, as follows:

At the end of the amendment add the following:

APPLICATION TO EXECUTIVE OFFICERS.—

The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position of Level V or above of the Executive Schedule under section 5316 of title V, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at Level V of the Executive Schedule.

PRESSLER AMENDMENT NO. 2886

Mr. PRESSLER proposed an amendment to amendment No. 2884 proposed by Mr. PRESSLER (and others) to the bill S. 110, supra, as follows:

In section (c)(D)(2) delete "Office of Personal Management and insert "Office of Management and Budget".

LIEBERMAN (AND KERRY) AMENDMENT NO. 2887

Mr. LIEBERMAN (for himself, Mr. KERRY, Mr. AKAKA, and Mrs. KASSEBAUM) proposed an amendment to the bill S. 110, supra, as follows:

At the appropriate place in the amendment add the following:

Since Americans are deeply concerned about the impact of the Iraqi invasion of Kuwait on the world supply and price of crude oil and on the price of refined products—like gasoline and heating oil—that the American consumer will have to pay and the American economy will have to absorb;

Since the Department of Energy now estimates that most of the crude oil production lost because of the Iraqi invasion of Kuwait will be offset by increased production around the world;

Since crude oil markets remain unstable and volatile, causing the price of crude this week to exceed forty dollars per barrel and leading some experts to conclude that it may reach sixty dollars per barrel;

Since the latest economic indicators show that even before Iraq's invasion of Kuwait the American economy was slowing such that the recent increases in the price of oil and oil products now threaten seriously to disrupt our economy and begin a recession;

Since the substantial increases in oil and oil product prices will severely affect those who can least afford it, including rural and urban poor, home heating fuel users, and small communities relying on oil-fired electric power generation;

ARMSTRONG AMENDMENT NO. 2888

Mr. ARMSTRONG proposed an amendment to amendment No. 2887 proposed by Mr. LIEBERMAN to the bill S. 110, supra, as follows:

At the end of the pending question add the following:

At the appropriate place, add the following new section:

SEC. . NOTIFICATION OF PARENT PRIOR TO ABORTION ON A MINOR.

(a) NOTIFICATION REQUIREMENT.—Section 1001 of the Public Health Service Act (42 USC 300) is amended by adding at the appropriate place the following new subsection:

"( )(1) No entity which receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified under paragraph (2), except when the attending physician certifies in the minor's medical record that the abortion was performed due to a medical emergency requiring immediate action.

"(2) Such notice shall—

"(A) Be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or

"(B) Be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

"(3) This subsection shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian."

(b) EFFECTIVE DATE.—This section shall take effect 30 days after enactment.

HUMPHREY AMENDMENT NO. 2889

Mr. HUMPHREY proposed an amendment to the bill S. 110, supra, as follows:

At the end of the pending question, add the following:

SAVINGS AND LOAN FRAUD

SECTION 1. SHORT TITLE

This Act may be cited as the "Savings and Loan Corruption Act of 1990."

SEC. 2 FINDINGS

(a) Congress finds—

(1) that the savings and loan debacle is the largest financial crisis in our Nation's history, and that the cost to the American taxpayer of that debacle may be in excess of one trillion dollars;

(2) that fraud and other criminal activity—including criminal activity by federal officials and officeholders—may have contributed significantly to the saving and loan industry's losses and will cost taxpayers billions of dollars;

(3) that Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(4) that at least some of those fraudulent officers and managers attempted to perpetuate their fraudulent activities through the application of political influence on the appropriate regulatory authorities;

(5) that officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(6) that investigating and prosecuting criminal activity related to the savings and loan crisis—including unlawful efforts to exert political influence on regulatory authorities—will help send an important message of "never again" to those involved in the financial industry; and

(7) that the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed.

(b) PURPOSE.—It is therefore the purpose of this Act to make increased resources available to the investigation and prosecution of persons who used their political offices to stymie the effective regulation of troubled financial institutions.

SEC. 3. ENFORCEMENT.

(a) Subsection (b) of section 591 of title 28, United States Code, is amended as follows:

(1) by striking the word "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by inserting at the end thereof the following new paragraph:

"(9) any member of the Senate or the House of Representatives or any former member of the Senate or House of Representatives.".

(b) Section 592 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Not later than sixty days after the enactment of this Act, the Attorney General shall make an application pursuant to subsection (c) of this section for the ap-

pointment of an independent counsel to investigate any violation of Federal criminal law (other than a violation classified as a class B or C misdemeanor or an infraction) in connection with any federally insured financial institution to which Public Law 101-73 and amendments made by Public Law 101-73 apply by any person described in subsection (b) of section 591 of this title if the Attorney General finds that there are reasonable grounds to believe that such violations have been committed by such persons.

BOND (AND OTHERS) AMENDMENT NO. 2890

Mr. BOND (for himself, Mr. DODD, Mr. GRAHAM, and Mr. KERREY) proposed an amendment to amendment No. 2889 proposed by Mr. HUMPHREY to the bill S. 110, supra, as follows:

TITLE I

SECTION 1. ESTABLISHMENT.

There is established the National Commission on the Savings and Loan Industry.

SEC. 2. DUTIES OF THE COMMISSION.

The Commission shall—

(1) examine and identify the origin and causes of the problems in the savings and loan industry that led to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including, among other things, consideration of the role of—

(A) State and Federal regulation of savings and loan associations, including capital and accounting standards;

(B) supervision of, and supervisory resources allocated to, savings and loan associations by, or under the authority of, State and Federal governments;

(C) State and Federal statutes concerning savings and loan associations, including asset powers legislation;

(D) macroeconomic changes and regional recessions;

(E) competitive factors;

(F) unprecedented fraud and abuse by persons in or connected with savings and loan associations;

(G) deposit insurance, including changes in the amount insured and in technology; and

(2) recommend, on the basis of such examination, further legislative, regulatory, supervisory, and other administrative changes that will—

(A) prevent the recurrence of the problems identified in the savings and loan industry; and

(B) improve the safety and soundness of depository associations, the Federal deposit insurance funds, and other Federal insurance programs.

SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed as follows:

(1) 2 individuals appointed by the President.

(2) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) ELIGIBILITY.—No member, officer, or employee of the executive, legislative, or judicial branch of the Federal Government or of any State or local government may be a member of the Commission.

(c) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy in the Commission shall be filled in the mannr in which the original appointment was made.

(d) PROHIBITION ON COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) QUORUM.—Five members of the Commission shall constitute a quorum but 3 members may hold hearings.

(f) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the Commission from among its members.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or of 5 members of the Commission.

SEC. 4. POWERS OF COMMISSION; HEARINGS AND SESSIONS.

(a) IN GENERAL.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) WITNESSES; ADMINISTRATION OF OATHS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission may call witnesses and administer oaths or affirmations to witnesses appearing before the Commission.

(2) COORDINATION OF CERTAIN TESTIMONY AND EVIDENCE.—(A) In any case where the Commission intends to receive evidence or call a witness to provide testimony concerning a specific savings and loan association or the role of any person in connection therewith, the Commission shall, in writing not less than 21 days prior to the taking of such testimony or receiving such evidence, provide the Attorney General, the Director of the Office of Thrift Supervision, and the head of the Resolution Trust Corporation with—

(i) the name of the savings and loan association involved;

(ii) the date and location of the testimony or the receipt of evidence; and

(iii) as appropriate, the name of the witness and a specific identification of the subject matter about which such witness is to testify or provide evidence, or the specific nature of the evidence to be received.

(B) The Commissioner shall not take any such testimony or receive any such evidence to the extent the Attorney General, the Director of the Office of Thrift Supervision, or the head of the Resolution Trust Corporation certifies to the Commission that taking such testimony or receiving such evidence would impair, impede, or compromise the investigation, prosecution, or adjudication of a criminal, civil, or administrative matter or proceeding.

(c) INTERIM REPORT.—Not later than 60 days after the date of enactment of this Act, the Commission may submit a report to the Congress concerning the ability of the Commission to obtain information and evidence necessary to carry out its duties under section 2 and including such recommendations concerning additional authority as the Commission deems appropriate.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(f) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take pursuant to this section.

SEC. 5. STAFF OF COMMISSION: EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribe by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

SEC. 6. REPORT.

(a) REPORT REQUIRED.—The Commission shall submit a final report to the President and the Congress not later than 6 months after the appointment of the chairperson pursuant to section 3(f).

(b) CONTENTS.—The final report shall, consistent with the duties of the Commission set forth in section 2 of this Act, contain a detailed statement of the findings, conclusions, and recommendations of the Commission.

SEC. 7. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by section 6(a) of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this Act.

TITLE II—RESTRUCTURING THE FEDERAL PROSECUTION OF BANK CRIMES

SEC. 201. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be

headed by a special counsel for the Financial Institutions Fraud Unit (referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET PROVISION.—The provisions of this section shall expire no later than 5 years after the date of enactment. The Attorney General may reassign the special counsel of the Financial Institutions Fraud Unit and the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.

SEC. 202. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall be responsible for—

(1) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(2) ensuring that Federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized by law to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 203. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such number of personnel as the Attorney General deems appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 204. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial service industry and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide, if the Attorney General determines appropriate, for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant savings and loan and bank fraud cases and in focusing investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Federal Bureau of Investigation;

(C) the Department of the Treasury;

(D) the Office of Thrift Supervision;

(E) the Resolution Trust Corporation;

(F) the Federal Deposit Insurance Corporation;

(G) the Comptroller of the Currency;

(H) the Board of Governors of the Federal Reserve System;

(I) the National Credit Union Administration; and

(J) the Attorney General's Advisory Committee of the United States Attorneys.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 205. REPORTS.

(a) IN GENERAL.—(1) The Financial Institution Fraud Unit shall compile and collect data concerning—

(A) the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and number of such matters closed, settled, or litigated to conclusion; and

(C) the results achieved, including fines and penalties levied, prison sentences imposed, and damages recovered, in such matters.

(2) Prior to the conclusion of an investigation or prosecution, data may be compiled in an aggregate statistical form.

(3) The Financial Institutions Fraud Unit shall analyze and report semiannually to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives on the data described in paragraph (1) and its own coordination activities with the agencies named in section 204(c), and shall provide such data, as appropriate to such committees.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) be categorized as to various types of financial institutions;

(2) disclose data for each Federal judicial district; and

(3) identify, with respect to the activities of the Financial Institutions Fraud Unit—

(A) the number of institutions in which evidence of significant fraud or insider abuse has been detected;

(B) the Federal administrative enforcement actions brought against offenders;

(3) any settlements or judgments obtained against offenders;

(4) the indictments, guilty pleas, or verdicts obtained against offenders; and

(5) the resources allocated in pursuit of such settlements, indictments, or verdicts.

SEC. 206. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

(2) adding at the end thereof the following new subsection:

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending criminal matters, investigations, cases, and defendants involving financial institutions which shall specify the number of such cases relating to insured depository institutions and shall be made available to the Congress not less than monthly during each year.".

KENNEDY AMENDMENTS NOS. 2891 THROUGH 2911

(Ordered to lie on the table.)

Mr. KENNEDY submitted 21 amendments intended to be proposed by him to amendments intended to be proposed to the bill S. 110, supra, as follows:

AMENDMENT NO. 2891

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No funds made available under title X of the Public Health Service Act shall be used for the performance of an abortion under any circumstances.

AMENDMENT NO. 2892

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No funds made available under title X of the Public Health Service Act shall be used for the performance of an abortion under any circumstances regardless of whether the parent of a minor consents or does not consent to such abortion.

AMENDMENT NO. 2893

Beginning on page 1 of the amendment, strike line 7 and all that follows through page 2, line 23, and insert the following new section:

"SEC. 1012. EMPLOYEE PROTECTION.

"The Secretary of Labor shall by regulation establish an employee protection program with a scope of protection, procedures, and remedies that are substantially identical to those found in section 405 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2305), except that the burden of proof relied on for determining whether to order corrective action or any other remedy shall be that set forth in section 1221(e) of title 5, United States Code.".

AMENDMENT NO. 2894

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No funds appropriated under title X shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in the Act shall be used to pay the salary or expenses of any grant or contract, recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before Congress.

AMENDMENT NO. 2895

On page 1 of the amendment, line 10, insert "referrals for" before the dash.

AMENDMENT NO. 2896

On page 2 of the amendment, line 1, insert before the end quotation marks the following: "Notwithstanding the previous sentence, the Secretary shall not make a grant to an organization under this title that is unable to provide services or perform other functions as required under this title or the regulations promulgated under this title.".

AMENDMENT No. 2897

On page 1 of the amendment, strike out line 1, and all that follows and insert in lieu thereof the following:

An objective of family planning programs that receive assistance under title X of the Public Health Service Act shall be the reduction in the number of unintended pregnancies.

AMENDMENT No. 2898

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

Services provided to minors under title X of the Public Health Service Act shall include information on the risks and benefits of all reproductive health choices, including information on the benefits of abstinence and mutually faithful monogamy as a proper reproductive health strategy.

AMENDMENT No. 2899

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

All grantees under title X of the Public Health Service Act shall use only medical supplies that are safe and effective.

AMENDMENT No. 2900

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

Organizations that receive assistance under title X of the Public Health Service Act shall offer adoption referral services and shall inform all clients considering termination of pregnancy of the option of adoption, except that any adoption referral service provided under this section shall be nondiscriminatory as to race, color, religion, and national origin.

AMENDMENT No. 2901

On page 1 of the amendment, strike out line 1 and that follows and insert in lieu thereof the following:

Notwithstanding any other provision of title X of the Public Health Service Act, agencies providing family planning services to minors under such title shall encourage parental involvement in the provision of such services. Nothing in the preceding sentence shall be construed to deny minors access to confidential family planning services.

AMENDMENT No. 2902

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No funds shall be made available under title X of the Public Health Service Act unless the Secretary has promulgated regulations requiring that the recipient of such funds consider the financial resources of the patient in determining whether such patient is from a low-income family for purposes of such title.

AMENDMENT No. 2903

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No family planning services shall be provided under title X of the Public Health Service Act in a public school unless such program has been approved by the appropriate local school board after consultation with parents of children in the affected school.

AMENDMENT No. 2904

Notwithstanding any other provision of title X of the Public Health Service Act, agencies providing family planning services to minors under such title shall encourage parental involvement in the provision of such services. Nothing in the preceding sentence shall be construed to deny minors access to confidential family planning services.

AMENDMENT No. 2905

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

Notwithstanding any other provision of title X of the Public Health Service Act, agencies providing family planning services to minors under such title shall encourage parental involvement in the provision of such services. Nothing in the preceding sentence shall be construed to deny minors access to confidential family planning services.

AMENDMENT No. 2906

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

Notwithstanding any other provision of title X of the Public Health Service Act, agencies providing family planning services to minors under such title shall encourage parental involvement in the provision of such services. Nothing in the preceding sentence shall be construed to deny minors access to confidential family planning services.

AMENDMENT No. 2907

On page 1 of the amendment, line 5, insert "referrals for" before "prenatal".

AMENDMENT No. 2908

On page 1 of the amendment, line 7, insert "referrals for" before "breast".

AMENDMENT No. 2909

On page 1 of the amendment. line 5, insert "referrals for" before "prenatal".

AMENDMENT No. 2910

In lieu of the matter proposed to be inserted, insert the following:

SEC. . PARTNER NOTIFICATION.

All grantees who receive assistance under title X of the Public Health Service Act, and who provide HIV testing and counseling services with such assistance, shall assure the Secretary of Health and Human Services that such grantees are in compliance with State and local requirements concerning the notification of the sexual partners of individuals identified as infected with HIV as a result of tests performed by the grantee with such assistance.

AMENDMENT No. 2911

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

"Such projects shall offer adoption referral services and shall inform all clients considering termination of pregnancy of the option of adoption, except that any adoption referral service provided under this section shall be nondiscriminatory as to race, color, religion, and national origin."; and

STEWART B. McKINNEY HOMELESS HEALTH CARE, EDUCATION, TRAINING, AND COMMUNITY SERVICES ACT

KENNEDY AMENDMENT NO. 2912

Mr. CRANSTON (for Mr. KENNEDY) proposed an amendment to the bill (S. 2863) to amend the Stewart B. McKinney Homeless Assistance Act and the Public Health Service Act to reauthorize certain health, education, training, and community services programs, and for other purposes, as follows:

At the appropriate place, insert the following new title:

TITLE _____—HOMELESSNESS PREVENTION

SEC. _____01. SHORT TITLE.

This title may be cited as the "Homelessness Prevention and Community Revitalization Act of 1990".

SEC. _____02. PURPOSE.

It is the purpose of this title —

(1) help create safe, positive environments for families, children and individuals in low income housing and neighborhoods;

(2) reduce homelessness and institutionalization by making permanent housing accessible and hospitable to low income families, homeless veterans, frail elderly and individuals of special needs; and

(3) prevent additional homelessness by providing on-site social services and case management to families and individuals who are at risk of homelessness due to income level, illness, mental illness or lack of social and economic support networks.

Subtitle A—Family Support Centers

SEC. _____11. DEFINITIONS.

As used in this subtitle:

(1) ADVISORY COUNCIL.—The term "advisory council" means the advisory council established under section _____12(d)(2)(K).

(2) ELIGIBLE AGENCY.—The term "eligible agency" means State or local agencies, a Head Start agency, any community-based organization including an organization officially designated as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, and in addition includes an institution of higher education, a public hospital, a community development corporation, a community health center, and any other public or private nonprofit agency or organization specializing in delivering social services.

(3) FAMILY CASE MANAGERS.—The term "family case managers" means advisers operating under the provisions of section _____16.

(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term "governmentally subsidized housing" means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

(5) HOMELESS.—The term "homeless" has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a) and (c)).

(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term "intensive and comprehensive supportive services" means—

(A) in the case of services provided to infants, children and youth, infant and child primary and health services designed to enhance the physical, social, emotional, educational and intellectual development of such infants and children and that shall include, where appropriate, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness services, education and support services for youth (including basic skills and literacy services), and nutritional services;

(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling and treatment or referral for treatment, employment counseling and training as appropriate, life-skills training and personal financial counseling, education including basic skills and literacy services, parenting classes, health care and mental health services, peer counseling and crisis intervention services; and

(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment or referral for treatment, family violence counseling services, violence counseling and peer support services, family advocacy services, and housing assistance activities including emergency rental or mortgage assistance payments, housing counseling and eviction or foreclosure prevention assistance.

(7) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) VERY LOW INCOME.—The term "very low income" when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

SEC. ____12. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, emotional, educational, and intellectual development of low-income families, especially those very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless.

(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

(2) the proximity of the agencies and facilities associated with the program to the low-income families to be served by the program or the ability of the agency to provide offsite services;

(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, and other relevant services), with public or private non-profit agencies and organizations that provide assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

(4) the management and accounting skills of the eligible agency;

(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program; and

(6) the involvement of project participants and community representatives in the planning and operation of the program.

(d) REQUIREMENTS.—

(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall—

(A) if a planning grant application has been approved for such agency under section ____13(b), have such application on file with the Secretary;

(B) have experience in providing or arranging for the provision of services such as those required under this section; and

(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

(A) identify the population and geographic location to be served by the program;

(B) provide assurances that services are closely related to the identifiable needs of the target population;

(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

(D) identify the referral providers, agencies, and organizations that the program will use;

(E) describe the method of furnishing services at offsite locations, if appropriate;

(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, social, substance abuse, and income maintenance services;

(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

(J) describe the manner in which the applicant will implement the requirement of section ____14;

(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall consist of not more than 15 members that shall include—

(i) prospective participants in the program;

(ii) representatives of local private industry;

(iii) individuals with expertise in the services the program intends to offer;

(iv) representatives of the community in which the program will be located;

(v) representatives of local government social service providers;

(vi) representatives of local law enforcement agencies; and

(vii) representatives of the local public housing agency, where appropriate;

(L) describe plans for evaluating the impact of the program;

(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(e) FAMILY SUPPORT CENTER.—Each program that receives assistance under this section shall establish at least one family support center that shall operate out, or in the immediate vicinity, of governmentally subsidized housing. Such centers shall be the primary location for the administration of the programs and the provision of services under this subtitle.

SEC. ____13 PLANNING GRANTS.

(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section ____12.

(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require. Each such application shall—

(1) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to this subtitle;

(2) describe the low-income families to be served by the program including the number to be served and information on the population and geographic location to be served;

(3) describe how the needs of individuals identified under paragraph (2) will be met by the program;

(4) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

(5) describe the manner in which the program will be operated together with the involvement of other community groups and public agencies;

(6) specify the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

(7) contain assurances that the applicant will establish a planning phase advisory council, that may become the council required under section ____12(d)(2)(K), that shall include—

(A) prospective participants in the program,

(B) individuals with expertise in the services the program intends to offer;

(C) representatives of the community in which the program will be located;

(D) representatives of local government social service providers;

(E) representatives of local law enforcement agencies; and

(F) representatives of local public housing agencies;

(8) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

(9) contain an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section ____12; and

(10) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(c) ADMINISTRATIVE PROVISIONS.—

(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this subsection.

(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section ____12 unless such applicant receives a grant under this section.

(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

SEC. ____14. TRAINING AND RETENTION.

The Secretary shall require that agencies that receive a grant under section ____12 use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

SEC. ____15. AMOUNTS OF GRANTS.

(a) IN GENERAL.—The Secretary shall pay to an eligible agency having an application approved under section ____12 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

(c) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

(2) PRIVATE CONTRIBUTIONS.—Of the non-Federal share, 25 percent of such amount shall be provided through contributions from private entities.

(d) PAYMENTS.—Payments under this subtitle may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

SEC. ____16. FAMILY CASE MANAGERS.

(a) REQUIREMENT.—Each program that receives a grant under section ____12 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this shall be assessed by a family case manager on such families initial visit to such program as to their need for services.

(c) CONTINUING FUNCTIONS.—Family case managers shall formulate a plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and services, including school advocacy services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities.

(d) SPECIAL SERVICES.—Case managers shall provide comprehensive services as required under the application submitted under section ____12, that places special emphasis on services relating to substance abuse and domestic violence.

(e) LIMITATION.—No family crisis adviser shall carry a caseload of in excess of 20 families.

SEC. ____17. EVALUATIONS.

(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this subtitle be evaluated, by a third party with expertise in the types of services to be provided under this subtitle, on an annual basis.

(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this subtitle in—

(1) enhancing the living conditions in low income housing and in neighborhoods;

(2) improving the physical, social, emotional, educational, and intellectual development of low income children and families served by the program;

(3) increasing the self-sufficiency of families served by the program; and

(4) such other factors that the Secretary may reasonably require.

(c) INFORMATION.—Each eligible agency receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

SEC. ____18. REPORT.

Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

(1) concerning the evaluations required under section ____17, together with such recommendations, as the Secretary considers appropriate; and

(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle.

SEC. ____19. CONSTRUCTION.

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

SEC. ____20. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

Subtitle B—Provision of Services to Elderly Individuals and Individuals With Chronic and Debilitating Illnesses and Conditions

SEC. ____31. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"PART L—PROVISION OF SERVICES TO FRAIL ELDERLY INDIVIDUALS AND INDIVIDUALS WITH CHRONIC AND DEBILITATING ILLNESSES AND CONDITIONS

"SEC. 399B. DEFINITIONS.

"As used in this part:

"(1) ADVISORY COUNCIL.—The term 'advisory council' means the advisory council established under section 399C(d)(2)(K).

"(2) ELIGIBLE AGENCY.—The term 'eligible agency' means any community-based organization, State or local agency, community health center, public or private non-profit agency or other institution that will provide or arrange for the provision of appropriate comprehensive services to frail elderly or seriously ill individuals.

"(3) FRAIL ELDERLY.—The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes part.

"(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of low income families or individuals.

"(5) HOMELESS.—The term 'homeless' has the same meaning given such term in subsection (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or un-

usually high or low individual or family incomes.

"(7) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 399C. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies to pay the Federal share of the cost of programs designed to encourage the provision of eligible services to low-income elderly or low-income seriously ill individuals, especially those very low income elderly or seriously ill individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

"(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

"(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the agencies and facilities associated with the program to the low-income individuals to be served by the program, or the ability of the agency to provide offsite services;

"(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for health and mental health services, social services, nutrition, and other relevant services), with public or private non-profit agencies providing assistance to homeless individuals and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) the management and accounting skills of the eligible agency;

"(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program;

"(6) the involvement of program participants and community representatives in the planning and operation of the program; and

"(7) the demonstrated or potential effectiveness of the eligible agency in serving the populations or subpopulations intended to be served under this section.

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) APPLICATION.—Each application submitted under paragraph (1) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of eligible services of the type described in section 399D;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

"(G) describe how the program will relate to the State and local agencies providing health, nutritional, social, and income maintenance services;

"(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(J) describe the manner in which the applicant will implement the requirement of section 399F;

"(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall include—

"(i) prospective participants in the program;

"(ii) individuals with expertise in the services the program intends to offer;

"(iii) representatives of the community in which the program will be located;

"(iv) representatives of local government social service providers;

"(v) community based organizations with a history of providing service to participants;

"(vi) representatives of local public housing agencies, where appropriate; and

"(vii) representatives of local health care professions;

"(L) describe plans for evaluating the impact of the program;

"(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

"(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(e) HOME HEALTH SERVICE PROGRAM.—Each recipient that receives assistance under this section shall establish at least one home health service program that shall operate out of, or in the immediate vicinity of, governmentally subsidized housing. Such programs shall be the primary location for the administration of the programs and the provision of services under this part. Such programs may operate out of existing family support centers.

"SEC. 399D. PLANNING GRANTS.

"(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 399C.

"(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require, including—

"(1) a description of the capacity of the eligible agency to provide or ensure the availability of services pursuant to this part;

"(2) a description of the low-income frail elderly or low-income seriously ill individuals to be served by the program including the number to be served and information on the population and geographic location to be served;

"(3) a description of the needs of individuals identified under paragraph (2) that will be met by the program;

"(4) a description of the services that program planners intend to address in the development of the plan;

"(5) a description of the manner in which the program will be operated together with the involvement of other community groups and public agencies;

"(6) a specification of the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

"(7) assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 399C(d)(2)(K), that shall include—

"(A) prospective participants in the program,

"(B) individuals with expertise in the services the program intends to offer;

"(C) representatives of the community in which the program will be located;

"(D) representatives of local government social service providers;

"(E) representatives of local public housing agencies, where appropriate;

"(8) a description of the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

"(9) an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 399C; and

"(10) an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant State and local funds currently utilized to provide services of the type described in this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

"(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this section.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 399C unless such applicant receives a grant under this section.

"(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

"SEC. 399E. ELIGIBLE SERVICES.

"(a) IN GENERAL.—Grants awarded under this part shall be used to provide services of the type described in subsection (b) to low-income frail elderly or low income seriously ill individuals.

"(b) SERVICES.—Agencies receiving grants under this part shall use such grants to provide comprehensive services, in accordance with the service plan, that shall include, where appropriate—

"(1) 24-hours nursing supervision services;

"(2) case management services;

"(3) home health care services;

"(4) homemaker services;

"(5) meal provision services;

"(6) attendant services;

"(7) volunteer visiting services;

"(8) adult day care service;

"(9) treatment for substance abuse;

"(10) hospice services;

"(11) post hospitalization respite care services;

"(12) transportation services;

"(13) assistance in accessing and maintaining appropriate public assistance;

"(14) housing assistance activities, including emergency rental or mortgage assistance payments, housing counseling, and eviction or foreclosure prevention assistance;

"(15) mental health services; and

"(16) any other services determined appropriate by the Secretary.

"(c) COORDINATION.—Programs that receive assistance under this part shall be coordinated with a local hospital or community health center that regularly provides emergency medical care services.

"(d) SET-ASIDE FOR ELDERLY.—The Secretary shall require that at least 20 percent of the grants made under this part shall be set-aside for the provision of subsidized housing-based services to elderly individuals, especially those very low income elderly individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"SEC. 399F. TRAINING AND RETENTION.

"The Secretary shall require that agencies that receive a grant under section 399C use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

"SEC. 399G. AMOUNTS OF GRANTS.

"(a) IN GENERAL.—The Secretary shall pay to eligible agencies having applications approved under sections 399C the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

"(c) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(2) CASH.—At least 25 percent of the non-Federal share under paragraph (1) shall be in the form of cash.

"(d) PAYMENTS.—Payments under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"SEC. 399H. EVALUATIONS.

"(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this part are evaluated, by a third party with expertise in the types of services to be provided under this part, on an annual basis.

"(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this part in—

"(1) enhancing the living conditions for low income frail elderly and seriously ill individuals;

"(2) improving the opportunity for individuals served by the program to live independently and to avoid institutionalization; and

"(3) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible agency receiving a grant under this part shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

"SEC. 399I. REPORT.

"Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

"(1) concerning the evaluations required under section 399H, together with such recommendations, including recommendations for legislation, as the Secretary considers appropriate; and

"(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this part.

"SEC. 399J. CONSTRUCTION.

"Nothing in this part shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 399K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

Subtitle C—Projects to Aid the Transition from Homelessness

SEC. ____41. PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Service Act (42 U.S.C. 290cc et seq.) is amended to read as follows:

"PART C—PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS

"SEC. 521. SHORT TITLE.

"This part may be cited as the 'Projects to Aid the Transition from Homelessness (PATH) Act of 1990'.

"SEC. 522. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, a metropolitan city, or an urban county.

"(2) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual, including a veteran, who is—

"(A) afflicted with serious mental illness, alcoholism, substance abuse or a combination thereof; and

"(B) homeless or at imminent risk of becoming homeless.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

"(4) SERVICE PROVIDER.—The term 'service provider' includes any general purpose unit of local government, a city, county, town, township, parish, village or combination thereof, a public or private non-profit agency including a veterans' community based service provider, or a community based organization.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau.

"(6) URBAN COUNTY.—The term 'urban county' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 523. ALLOTMENT.

"(a) IN GENERAL.—The Secretary shall utilize amounts appropriated under section 532 in each fiscal year, to make an allotment to metropolitan cities, urban counties, and States (for distribution to service providers in the States) in the same manner as the Secretary of Housing and Urban Development makes allocations under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), except that the Secretary shall—

"(1) substitute 50 percent for 70 percent in subsection (a) of such section 106; and

"(2) substitute 50 percent for 30 percent in subsection (d) of such section 106.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—If, under the allotment provisions applicable under this part, any city or urban county would receive an allotment of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallotted to the State, except that any metropolitan city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allotted to such city under subsection (a).

"(2) MINIMUM.—Notwithstanding any other provision of law, the total amount allotted to each State under this part, including amounts allotted to each eligible entity within the State, shall not be less than—

"(A) $500,000; or

"(B) the amount of the allotment such State received pursuant to this part in fiscal year 1990 plus 30 percent of such allotment.

"(3) RATABLE REDUCTION.—The Secretary shall ratably reduce the allotments made pursuant to subsection (a) in order to carry out the provisions of this subsection.

"(c) ALLOTMENTS TO TERRITORIES.—In addition to the other allotments required in this section, the Secretary shall (for amounts appropriated under section 532) make allotments under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau, and any other territory or possession of the United States, in accordance with an allotment formula established by the Secretary, but in no case shall the total amount allotted to all of the territories and possessions exceed 2 percent of the total amount appropriated under section 532.

"(d) REMAINING AMOUNTS.—The Secretary may allocate any unclaimed or remaining

funds to eligible entities determined by the Secretary to be in need of additional assistance.

"(e) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under this part to an eligible entity unless such entity agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided under the allotment.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Except as provided in paragraph (3), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(3) SPECIAL RULE.—Funds received pursuant to section 106 of the Housing and Community Development Act of 1974, and the value of any property, buildings, or housing received and fairly evaluated may be included in determining the amount of such non-Federal contributions.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (1) for metropolitan cities and urban counties which are unable to provide such matching funds.

"(5) PARTICIPATING LOCALITIES.—Each State receiving an allotment under this part shall not require participating localities to provide non-Federal contributions in excess of the non-Federal contributions described in paragraph (1).

"SEC. 524. ALLOTMENT APPLICATION.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Each eligible entity desiring an allotment under section 523 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) APPLICATION PERIOD.—The Secretary shall provide for a 90 day period during which applications may be submitted pursuant to paragraph (1).

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities and services for which the allotment is sought;

"(2) identify existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(3) include a plan for providing services and housing to eligible homeless individuals that shall—

"(A) describe the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) include documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(4) describe the source of the non-Federal contributions described in section 523;

"(5) contain assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(6) describe any voucher system that may be used to carry out this part; and

"(7) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 525. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF GRANT FUNDS.

"(a) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity for any fiscal year unless—

"(1) the eligible entity submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the eligible entity is applying pursuant to such section;

"(2) such description identifies the geographic areas within the eligible entity in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the eligible entity agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the eligible entity pursuant to section 523.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall not make an allotment under section 523 to an eligible entity for a fiscal year unless the eligible entity agrees that, in developing and carrying out the description required in subsection (a), the eligible entity will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 526. USE OF ALLOTMENT.

"(a) USE OF ALLOTMENT.—

"(1) IN GENERAL.—Each eligible entity receiving an allotment under to section 523 shall use such allotment to pay the Federal share of awarding grants to or entering into contracts with service providers to enable such service providers to provide comprehensive services and allowable housing assistance to homeless individuals in accordance with the provisions of this part.

"(2) SPECIAL CONSIDERATION.—Each eligible entity receiving an allotment under section 523 shall give special consideration to the provision of services to homeless veterans who are otherwise eligible for services under this subtitle. In providing such services to homeless veterans, such eligible entities shall give priority to service providers with a demonstrated effectiveness in serving homeless veterans.

"(3) FEDERAL SHARE.—The Federal share shall be 75 percent.

"(4) SPECIAL RULE.—Each eligible entity receiving an allotment under section 523 shall use at least two-thirds of such allotment to assist eligible homeless individuals who have—

"(A) a primary diagnosis of a serious mental illness; or

"(B) a diagnosis involving a serious mental illness and substance abuse.

"(5) COORDINATION.—Each eligible entity receiving an allotment under section 523 shall only make grants pursuant to paragraph (1) to service providers that have the capacity to meet or coordinate the comprehensive services and housing needs of eligible homless individuals, including referral services. Such capacity includes contractual arrangements and viable referral plans among service providers of mental health, substance abuse, or housing services so that the comprehensive needs of individuals who are both mentally ill and substance abusers are met.

"(6) ADMINISTRATIVE EXPENSES.—Notwithstanding the provisions of this subsection, each eligible entity receiving an allotment pursuant to section 523 may reserve not to exceed 4 percent of such allotment for administrative expenses.

"(b) SPECIAL RULES.—Each eligible entity receiving an allotment under section 523 shall not award a grant to a service provider that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; and

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(c) SUPPLEMENTATION.—Each eligible entity receiving an allotment under section 523 shall only use such funds to supplement and not supplant Federal, State and local government funds currently utilized to provide services of the type described in this part.

"SEC. 527. LOCAL APPLICATION.

"Each service provider desiring a grant pursuant to section 526(a) shall submit an application to the appropriate eligible entity at such time, in such manner and accompanied by such information as the eligible entity may reasonably require.

"SEC. 528. LOCAL USE OF GRANT FUNDS.

"(a) SERVICES.—Grants awarded pursuant to section 526(a) shall be used to provide either on-site or off-site services to eligible homeless individuals, including homeless veterans. Such services shall include—

"(1) outreach and engagement services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individual, including services relating to daily living ac-

tivities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such Act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referral to primary health services;

"(10) referral to job training and education programs; and

"(11) referral to other relevant service or housing programs.

"(b) HOUSING.—Not to exceed 20 percent of amounts received under a grant awarded pursuant to section 526(a) may be used for—

"(1) minor renovation, expansion, and repair;

"(2) planning;

"(3) technical assistance in applying for housing assistance;

"(4) improving the coordination of housing services;

"(5) security deposits;

"(6) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(7) one time rental payments to prevent eviction.

"(c) LIMITATIONS.—Grants awarded pursuant to section 526(a) shall not be used—

"(1) to support emergency shelters or construction of housing facilities;

"(2) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; and

"(3) to make cash payments to intended recipients of mental health, substance abuse, or housing services.

"SEC. 529. COORDINATION.

"(a) IN GENERAL.—The Secretary shall provide for coordination among eligible entities of housing and service strategies used in carrying out the provisions of this part.

"(b) INFORMATION.—In carrying out the provisions of subsection (a) the Secretary shall make available to eligible entities—

"(1) the information contained in the application and plan submitted pursuant to section 524; and

"(2) the annual report described in section 531.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, may provide technical assistance to eligible entities in developing, planning, and operating programs in accordance with the provisions of this part.

"SEC. 531. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 523 were expended and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operation.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $120,000,000 for fiscal year 1991, and $150,000,000 for each of the fiscal years 1992 through 1995 to carry out this part.".

Subtitle D—Community Development Corporation Improvement Grants

SEC. ____51. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

Part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 634. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop low-income housing and to develop community economic development projects.

"(2) USE OF FUNDS.—Grantees may use funds obtained under this section—

"(A) to purchase training and technical assistance from agencies or institutions that have experience in the construction, development and management of low-income housing or experience in community economic development; or

"(B) to purchase such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to support an administrative capability for planning, developing, constructing and managing low-income housing, and for other community economic development projects.

"(2) USE OF FUNDS.—Of amounts made available in any fiscal year for operating grants under this subsection, the Secretary of Health and Human Services shall use—

"(A) 40 percent of such amounts to assist in starting up community development corporations; and

"(B) 60 percent of such amounts to assist established community development corporations.

"(3) TERMS AND CONDITIONS.—Assistance provided through operating grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(d) GRANTS FOR COMMUNITY DEVELOPMENT CORPORATION EQUITY ACCOUNTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to any nongovernmental, nonprofit entity that is principally involved with the development, construction or management of low-income housing, or to community development corporations, to enable such entities to establish and maintain equity accounts with which such corporations may plan, develop, construct and manage low-income housing.

"(2) TERMS AND CONDITIONS.—Assistance provided through equity account grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(e) APPLICATIONS.—Community development corporations that desire to receive assistance under this section shall prepare and submit, to the Secretary of Health and Human Services, an application at such time, in such form, and containing such information as the Secretary shall reasonably require. Such Secretary shall not require project-specific information for applications for assistance under subsections (b), (c) and (d).

"(f) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

"(2) USE.—The Secretary of Health and Human Services shall use—

"(A) 20 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (b);

"(B) 30 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (c); and

"(C) 50 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (d).

"(3) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(h) DEFINITION.—As used in this section, the term 'community development corporation' means a nonprofit entity of the type described in this section and that meets the resident control and governing body requirements of 42 U.S.C. 9807(a)(1).".

Subtitle E—Public Housing Gateway

SEC. ____61. SHORT TITLE.

This subtitle may be cited as the "Public Housing Gateway Act of 1990".

SEC. ____62. STATEMENT OF PURPOSE.

The purpose of this subtitle is to establish programs, through public housing agencies, to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. ____63. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Labor may make grants under this subtitle to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) SELECTION OF GRANT RECIPIENTS.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) PROVISION OF FACILITIES.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this subtitle.

(2) NEED AND CAPABILITY TO PROVIDE SERVICES.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section ____64(a) to individuals qualified to receive the training and services under section ____65.

(3) PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this subtitle will be provided only to individuals qualified to receive the training and services under section ____65.

(4) PROVISION OF SERVICES TO YOUNG FAMILIES.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this subtitle will be provided to residents of public housing projects where a significant number of young families receiving public assistance reside.

(5) COOPERATION WITH PRIVATE, NON-PROFIT ORGANIZATIONS, OR COMMUNITY BASED ORGANIZATIONS.—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, non-profit organizations, or community based organizations that are to provide training and services under this subtitle and are located in the same community as the public housing agency.

(c) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) PRIORITY.—The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, non-profit organizations, or community based organizations.

SEC. ____64. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section ____63 shall use the grant to establish a gateway program to make available to individuals eligible under section ____65 all of the following training and services, subject to the limitations of section ____65:

(1) INFORMATION.—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this subtitle.

(2) LITERACY TRAINING.—Literacy training and bilingual training.

(3) BASIC SKILLS TRAINING.—Remedial education and training in basic skills.

(4) DEVELOPMENT OF WORK HABITS.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) CHILD CARE.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) PERMISSIVE TRAINING AND SERVICES.—Public housing agencies that receive grants under section ____63 may make available as part of their gateway programs to individuals qualified under section ____65 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section ____65, including the following:

(1) EMPLOYMENT ASSISTANCE.—Assistance in acquiring employment.

(2) EMPLOYMENT COUNSELING.—Employment counseling and vocational exploration services.

(3) DEVELOPMENT OF JOBS.—Development of employment positions.

(4) PRIVATE JOB TRAINING.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.—Training or services coordinated with other Federal employment-related activities.

(6) HIGH SCHOOL EDUCATION.—Assistance in the attainment of certificates of high school equivalency.

(7) COMPUTER SKILLS TRAINING.—Training in computer skills for use in education, skills training, and employment preparation.

(8) TRAINING IN APPLICATION OF SKILLS.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) TRANSITIONAL ACTIVITIES.—Activities designed to provide transition from education to employment.

(10) DRUG PREVENTION SERVICES.—Services to assist individuals with drug prevention, drug counseling, and drug education programs.

(11) SUPPORT SERVICES.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. ____65. LIMITATIONS ON GATEWAY PROGRAMS.

(a) ELIGIBILITY IN GENERAL.—Public housing agencies receiving grants under this subtitle shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) RESIDENCY.—The individual shall be a resident of public housing.

(2) AGE.—The individual shall be not more than 25 years of age.

(3) ECONOMIC DISADVANTAGE.—The individual shall be economically disadvantaged.

(4) EDUCATIONAL DISADVANTAGE.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) LIMITATIONS ON CHILD CARE SERVICES.—

(1) ELIGIBILITY.—Public housing agencies receiving grants under this subtitle shall limit the provision of child care services under section ____64(a)(5) to the following individuals:

(A) PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services;

(B) UNEMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) COMMENCEMENT.—The period shall begin on the completion of the training or services by the individual.

(ii) TERMINATION.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this subtitle.

(C) EMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this subtitle, during the 12-month period that begins with commencement of the employment of the individual.

(2) COMPLIANCE WITH STATE AND LOCAL LAWS.—A public housing agency that provides child care services under this subtitle

shall ensure that the child care complies with applicable State and local laws.

(c) LIMITATIONS ON SUPPORT SERVICES.—An individual may receive support services under this subtitle after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) LIMITATION ON NONRESIDENT PERSONNEL.—A public housing agency receiving a grant made under this subtitle shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. ____66. EFFECT OF GATEWAY PROGRAMS.

(a) NONCONSIDERATION AS INCOME FOR PARTICIPATING INDIVIDUALS.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) PERIOD OF PARTICIPATION UNDER GATEWAY PROGRAM.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) EMPLOYMENT PERIOD.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) COMMENCEMENT.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this subtitle.

(B) TERMINATION.—The period shall end on whichever of the following occurs first—

(i) the expiration of the 18-month period following the commencement of the period described in subparagraph (A); or

(ii) the individual ceases to continue employment without good cause, as the Secretary shall determine.

(b) PUBLIC HOUSING OPERATING ASSISTANCE.—The use of the facilities of a public housing agency receiving a grant under this subtitle in the provision of training or services under a gateway program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. ____67. REVIEW AND SANCTIONS.

(a) REVIEW.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this subtitle with the provisions of this subtitle.

(b) SANCTIONS FOR NONCOMPLIANCE.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this subtitle, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this subtitle until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary shall not make further grant payments to the public housing agency under this subtitle.

SEC. ____68. REPORTS.

The Secretary shall transmit to the President and to the appropriate Committees of Congress a report containing a detailed statement of the activities of the public housing agencies receiving grants under this subtitle and the recommendations for any action the Secretary considers appropriate. Such reports shall include an evaluation of the effectiveness of such activities in enhancing the employability of residents of public housing.

SEC. ____69. DEFINITIONS.

As used in this subtitle:

(1) BASIC SKILLS.—The term "basic skills" means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(2) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(3) GATEWAY PROGRAM.—The term "gateway program" means a program for the provision of training and services described in section ____64 established by a public housing agency under a grant made by the Secretary under this subtitle.

(4) LITERACY.—The term "literacy" means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(5) OFFICER.—The term "officer" has the meaning given the term in section 2104 of title 5, United States Code.

(6) PUBLIC ASSISTANCE.—The term "public assistance" means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(7) PUBLIC HOUSING.—The term "public housing" has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SUPPORT SERVICES.—The term "support services" means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section ____64(a)(5) and services under section ____64(b)(10).

SEC. ____70. REGULATIONS.

The Secretary shall promulgate regulations necessary to carry out this subtitle.

SEC. ____71. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $40,000,000 for fiscal year 1991, and $50,000,000 for each of the fiscal years 1992 through 1995. Any amount appropriated under this section shall remain available until expended.

Subtitle F—Homeless Youth Demonstration Projects

SEC. ____81. SHORT TITLE.

This subtitle may be cited as the "Homeless Youth Demonstration Project Act of 1990".

SEC. ____82. DEMONSTRATION PROJECTS.

Subtitle E of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11472 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 763. DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HOMELESS YOUTH.—The term 'homeless youth' means an individual who is 21 years of age or younger, is in need of services, and lacks a permanent place of shelter that provides appropriate supervision and care for such individual or who resides in a group home on a temporary basis.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish not to exceed three demonstration projects that are designed to assist private and public agencies and organizations in working together to provide a network of comprehensive services, including medical, mental health, health, legal, social, outreach, and emergency services, to homeless youth.

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award grants to not to exceed three private, nonprofit organizations with demonstrated success in providing direct services to homeless youth, in subcontracting for such services, and in coordinating the provision of such services with other agencies, as referred to in paragraph (1).

"(B) LOCATION.—In awarding grants under subparagraph (A), the Secretary shall select organizations that are located in urban areas with a high concentration of out-of-city, out-of-county, and out-of-State homeless youth.

"(C) ABILITY TO PROVIDE SERVICES.—To be eligible for a grant under subparagraph (A), an organization shall demonstrate to the Secretary the ability of such organization, or another competent organization with which such organization has a subcontract, to provide a comprehensive network of each of the services described in paragraph (1).

"(D) PREFERENCE.—In awarding grants under subparagraph (A), the Secretary shall give preference to organizations that would involve a network of public and private agencies in the delivery of services to homeless youth.

"(3) EVALUATION OF DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall monitor each demonstration project established under paragraph (1) to determine whether such project is complying with the requirements of this section.

"(B) INDEPENDENT EVALUATOR.—

"(i) IN GENERAL.—The Secretary shall contract with an independent evaluator to evaluate the process and outcome of each demonstration project established under paragraph (1), and to make suggestions for the implementation of other similar demonstration projects in other areas of the country.

"(ii) STABILITY OF HOMELESS YOUTH.—The independent evaluator referred to in clause (i) shall assess the stability of homeless youth that are served by a demonstration project established under paragraph (1) after such youth are either reunited with family or settled in a stable environment.

"(4) ELIGIBLE YOUTH.—

"(A) IN GENERAL.—Except as provided for in subparagraph (B), an individual wishing

to receive services under this section shall be not more than 21 years of age.

"(B) EXCEPTION.—The Secretary may grant waivers to provide services under this section to individuals who are 22 through 24 years of age for not more than 10 percent of the funds awarded for grants under paragraph (2).

"(5) LENGTH OF DEMONSTRATION PROJECTS.—Each of the demonstration projects established under paragraph (1) shall not exceed a period of 3 years.

"(6) AUTHORIZATION OF APPROPRIATION.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991, 1992, and 1993.

"(B) INDEPENDENT EVALUATOR.—Of the amounts authorized to be appropriated under subparagraph (A), not to exceed $500,000 shall be utilized for the contract referred to in paragraph (3)(B).".

Subtitle G—Plan for Cooperation

SEC. ____91. PLAN FOR COOPERATION.

(a) IN GENERAL.—Not later than the date on which regulations necessary to carry out subtitle A, part L of title III of the Public Health Service Act (as added by subtitle B), part C of title V of the Public Health Service Act (as added by subtitle C), section 634 of the Community Economic Development Act of 1981 (as added under subtitle D), or subtitle E are issued, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a plan concerning the programs to be carried out under such subtitle, parts, and section.

(b) CONTENTS.—The plan prepared under subsection (a) shall—

(1) describe the method in which the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall consult with one another in implementing and administering the programs described in subsection (a) and coordinate the implementation of such programs with other relevant programs and Acts (including the programs established under the Stewart B. McKinney Homeless Assistance Act, or the amendments made by such Act, and under Federal housing Acts);

(2) contain an assurance that such Secretaries will consult with one another on an ongoing and continuous basis in such implementation; and

(3) contain procedures, developed by the Secretary of Housing and Urban Development, for granting priority in the provision of construction, rehabilitation or renovation assistance by such Secretary, to applicants that receive grants under the subtitle, parts, and section referred to in subsection (a).

INDOOR AIR QUALITY ACT

BURDICK AMENDMENT NO. 2913

Mr. CRANSTON (for Mr. BURDICK) proposed an amendment to the bill (S. 657) to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors, as follows:

On page 3, line 2/3, delete "environmental tobacco smoke".

On page 5, line 8, strike "establish at" and insert in lieu thereof "develop and coordinate through".

On page 7, line 26, strike "cooperation with" and insert in lieu thereof the following "coordination with other".

On page 8, line 9, insert after "authorized" the following ", subject to the availability of appropriations".

On page 9, line 16, insert at the end thereof the following "protocols,".

On page 9, line 19, insert after "sector" the following ", other governmental entities, and schools and universities".

On page 10, line 10, insert the following: "If the Administrator expects or intends that research pursuant to this subsection will primarily affect worker safety and health, he shall consult with the Assistant Secretary of Occupational Safety and Health and the Director.".

On page 10, line 11, insert after "Administrator" the following ", in coordination with other appropriate Federal agencies,".

On page 10, line 18, strike "both healthy individuals and sensitive populations" and insert in lieu thereof the following "populations both with and without heightened sensitivity".

On page 12, line 22, insert after "of" the following "protocols,".

On page 13, line 6, strike "or other measures" and insert the following ", building design criteria, and management practices".

On page 13, line 18, strike lines 18, 19, and 20.

On page 13, line 21, strike "(17)" and insert "(16)".

On page 13, line 23, strike "(18)" and insert "(17)" and strike "in conjunction with" and insert in lieu thereof the following "principally by".

On page 14, line 9, strike "(19)" and insert "(18)".

On page 14, line 20, strike "(20)" and insert "(19)".

On page 16, line 19, insert after "evaluation" the following "and publication".

On page 24, line 4, insert after "parties" the following ", including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls,".

On page 24, line 19, strike "Panel" and insert in lieu thereof the following "Committee".

On page 24, line 21, strike "and such comments shall be transmitted to Congress in conjunction with the report.".

On page 26, line 13, insert at the end thereof the following "Where the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

On page 27, line 1, insert after "indoor" the following "air".

On page 28, line 23, insert after "Administrator" the following ", in coordination with other Federal agencies,".

On page 29, line 1, insert at the end thereof the following "and workers".

On page 30, line 5, strike "worker" and insert after "public" the following "and worker".

On page 30, line 17, strike "which are known to occur (or which may be expected to occur)" and insert in lieu thereof the following "that may occur or are known to occur".

On page 31, line 12, delete "environmental tobacco smoke".

On page 35, line 15, strike "Indoor Air Panel" and insert in lieu thereof the following "Indoor Air Quality and Total Human Exposure Committee".

On page 35, line 25, insert after "Research," the following "the National Institute for Occupational Safety and Health,".

On page 36, line 2, strike "Board" and insert in lieu thereof the following "Advisory Panel".

On page 36, line 6, strike "consultation with" and insert in lieu thereof the following "coordination with other".

On page 36, line 17, strike "consultation with" and insert in lieu thereof the following "coordination with other".

On page 37, line 6, insert after "Administration" the following "and the National Institute for Occupational Safety and Health".

On page 37, line 8, insert the following "In implementation of response actions pursuant to paragraph (6) of this subsection the Assistant Secretary of Occupational Safety and Health shall consult with representatives of State and local governments and their employees with respect to States where the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.".

On page 37, line 9, insert after "Administrator" the following ", in coordination with other appropriate Federal agencies,".

On page 38, line 13, strike "and private and professional firms" and insert in lieu thereof "private and professional firms, and labor organizations".

On page 38, line 17, strike "and".

On page 38, line 20, insert after "contaminants" the following ";

"(6) identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

"(7) identification of contaminants, or circumstances of contamination, where regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

"(8) identification of contaminants, or circumstances of contamination, where continued reduction of contamination requires development of technology or technological mechanisms; and

"(9) identification of remedies to "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.".

On page 38, line 23, insert after "Administrator" the following: ", in coordination with other appropriate Federal agencies,".

On page 38, line 24, insert after "the" the following: "health effects, and any".

On page 38, line 24, insert after "contaminants" the following: "thought to cause health effects".

On page 39, strike lines 6, 7, 8 and 9.

On page 39, line 10, strike "(5)" and insert in lieu thereof the following: "(4)".

On page 39, line 11, insert at the end thereof the following: "and".

On page 39, line 12, strike "(6)" and insert in lieu thereof the following: "(5)".

On page 39, line 14, strike ";" and insert in lieu thereof the following: "."

On page 39, strike lines 15 through line 2 on page 40.

On page 40, line 16, strike "The Administrator shall include in the response plan a letter and any supporting materials providing the comments of the Council on Indoor Air Quality.".

On page 41, line 18, strike "Administrator of the" and insert in lieu thereof the following: "Assistant Secretary for".

On page 42, line 8, insert after "public" the following: "and worker".

On page 44, line 16, strike "and such comments and any supporting materials shall be included in the plan".

On page 46, line 18, strike "Administrator of the" and insert in lieu thereof the following: "Assistant Secretary for".

On page 46, line 20, insert after "filing" the following: "and responding to".

On page 46, line 23, insert the following: "The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act and executive orders pertaining to health and safety for Federal employees.".

On page 47, line 2, insert at the end thereof the following: "Such listing shall preserve the confidentiality of the individuals making filings under this section.".

On page 47, line 17, insert at the end thereof the following: "After thirty-six months from the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course within twelve months of designation.".

On page 54, line 10, strike "applicants" and insert in lieu thereof the following: "applications".

On page 55, line 10, insert after "groups" the following: ", labor organizations,".

On page 64, line 17, insert after "15." the following: "(a) GENERAL AUTHORITY.—".

On page 64, line 20, insert a new subsection as follows:

"(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health."

On page 65, line 2, strike "." and insert in lieu thereof the following: "and $1,000,000 shall be reserved for implementation of section 6(b) of this Act.".

On page 65, line 23, insert at the end thereof the following new section—

"RADON IN SCHOOLS

"SEC. 17. (a) TITLE.—This section may be cited as the "Radon Testing for Safe Schools Act".

"(b) FINDINGS.—The Congress finds that:

"(1) Exposure to radon gas causes about 20,000 lung cancer deaths each year.

"(2) Radon may be especially hazardous to small children who spend a substantial portion of a day in school buildings.

"(3) Testing for and remediation of elevated levels of radon is relatively simple and inexpensive.

"(4) Studies by the Environmental Protection Agency indicate that 54 per centum of schools tested above have at least one room with elevated levels of radon and that over 20 per centum of all school rooms tested had elevated levels of radon.

"(5) On April 20, 1989, the Administrator of the Environmental Protection Agency issued a national advisory recommending that all schools be tested for radon.

"(6) There is a need for improved information on proper methods and procedures for testing and remediation of radon in school buildings.

"(7) There is a need for the Federal Government to provide financial assistance to States and local educational agencies for implementation of measures to reduce elevated levels of radon.

"(c) REQUIREMENT FOR RADON TESTING.—Section 307 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new subsections:

"(c) GUIDELINES.—(1) Within one year of the date of enactment of this subsection, the Administrator shall publish guidelines on testing for and remediating radon in school buildings.

"(2) After the publication of guidelines pursuant to this subsection, testing and remediation carried out pursuant to this section shall be conducted in a manner consistent with such guidelines.

"(3) Any radon testing or remediation of school buildings conducted prior to the publication of guidelines pursuant to this subsection shall be considered to meet the requirements of this section if the testing or remediation is conducted consistent with any interim guidance published by the Administrator or a State where the Administrator determines that such guidelines are substantially consistent with the guidelines published under this subsection.

"(d) REQUIREMENT FOR RADON TESTING.—(1) Within two years after designation by the Administrator of an area as a priority radon area each local educational agency located in whole or in part in such designated area shall conduct tests for radon in each school building owned or operated by the local educational agency.

"(2) The Administrator may extend the schedule for testing for radon pursuant to this subsection to the date two years from the date of publication of testing guidelines pursuant to subsection (c) of this section.

"(3) The Administrator shall, as expeditiously as practicable, designate areas as priority radon areas based on—

"(A) surveys of residences for radon; or

"(B) the survy required by paragraph (4) of subsection (a) of this section; or

"(C) other data, including geological data. The Administrator shall designate areas pursuant to this paragraph no later than September 30, 1991.

"(4) The results of any tests conducted pursuant to this section by a local educational agency shall be available for public review in the administrative offices of the local educational agency during normal business hours. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such results and shall send the results to the Administrator and the agency of the State implementing radon programs.

"(5) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an EPA or equivalent State approved program, as determined by the Administrator and shall use radon measurement devices and methods approved by the radon proficiency program established pursuant to section 305(a)(2) of this title.".

"(d) RADON IN SCHOOLS REMEDIATION GRANT ASSISTANCE.—(1) Section 306(j)(1) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et eq.) is amended by inserting after "1991" the following—"and $15,000,000 for fiscal year 1992".

"(2) Section 306(j) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraphs—

"(6) Of funds appropriated pursuant to this subsection in fiscal year 1992, not more than one-third shall be used to implement radon remediation measures for local educational agencies pursuant to paragraphs (11) and (12) of subsection (c) of this section.

"(7) Of funds appropriated pursuant to this subsection in fiscal year 1992, the Administrator may reserve an amount up to 2 per centum or $200,000, whichever is the greater, for the purposes of making grants to local educational agencies for implementation of measures to reduce radon levels: *Provided*, That any local educational agency is prohibited by State law from receiving grant assistance from the State: *Provided further*, That the local educational agency provides not less than 50 per centum of the cost of implementing such measures from non-Federal sources.

"(8) There is authorized to be appropriated for grant assistance under paragraphs (11) and (12) of subsection (c) of this section an amount not to exceed $5,000,000 for each of fiscal years 1993, 1994, 1995, and 1996.

"(3) Section 306(c) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraphs—

"(11) Notwithstanding the limitation in subsection (i)(4), payment, in the form of grants or loans, of costs of implementing remediation measures necessary to prevent levels of radon in school buildings above the appropriate action level identified pursuant to section 303(h)(1) of this title: *Provided*, That such payments are made in consideration of the financial need of the applicant.

"(12) Payment of costs of conducting radon tests required pursuant to section 307(d) of this title: *Provided*, That such payments shall be made only in the case of a local educational agency which received assistance payment to paragraph (11) of this subsection.

"(4) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by striking "and (6)" and inserting in lieu thereof "(6), (11), and (12)".

"(5) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2661 et seq.) is amended by inserting after 'Governments—' the following '(1)' and inserting at the end thereof the following new paragraph—

"(2) Any remediation measures of reducing radon in school buildings implemented pursuant to this section shall be supervised by a person who has been approved pursuant to the proficiency program established pursuant to section 305(a)(2) of this title.".

"(e) DEFINITION.—Section 302 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraph—

"(5) The term 'priority radon area' means an area or region of the United States in which, in the judgment of the Administrator, there is a reasonable likelihood of indoor radon levels above the appropriate action level identified pursuant to section 303(b)(1) of this title.".

"(f) PREEMPTION.—(1) Nothing in this section shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

"(2) Nothing in this section shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

"(3) Nothing in this section shall be construed or interpreted as preempting a State from establishing any liability or more stringent requirements with respect to radon in school buildings within such State.

"(4) Nothing in this section creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(5) It is not the intent of Congress that this subsection or rules, regulations, or orders issued pursuant to this subsection be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this section or rules, regulations, or orders issued pursuant to this section.

On page 2; insert after "SEC. 16 Authorizations" the following new line;

"SEC. 17. Radon in Schools.

SOLAR AND GEOTHERMAL POWER PRODUCTION INCENTIVES ACT

DOMENICI AMENDMENT NO. 2914

Mr. CRANSTON (for Mr. DOMENICI) proposed an amendment to the bill (S. 2415) to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978, as follows:

Strike title III, and insert in lieu thereof the following:

"TITLE III—REMOVAL OF PURPA SIZE LIMITATIONS

"SEC. 301. This title may be cited as "The Solar, Wind, Waste and Geothermal Power Production Incentives Act of 1990.

"SEC. 302. PURPA AMENDMENT.—Section 210(e)(2) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting "(other than a qualifying small power production facility which is an eligible solar, wind, waste or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears.

"SEC. 303. FEDERAL POWER ACT AMENDMENTS

"(a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is an eligible solar, wind, waste or geothermal facility, or" after "'small power production facility' means".

"(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"'(E) "eligible solar, wind, waste or geothermal facility" means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources, and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii) of this section 3(17); but only if—

"'(i) either of the following is submitted to the commission not later than December 31, 1992:

"'(I) an application for certification of the facility as a qualifying small power production facility; or

"'(II) notice that the facility meets the requirements for qualification; and

"'(ii) construction of such facility commences not later than December 31, 1997 or, if not, reasonable diligence is exercised towards the completion of such facility taking into account all factors relevant to construction of the facility.'.

"SEC. 304. FERC REGULATIONS.

"Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after the enactment of this Act, any eligible solar, wind, waste or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this act)—

"(a) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

"(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 2657, the Reclamation Wastewater and Groundwater Study Act, and title XIII of H.R. 2567, McGee Creek contract adjustment.

The hearing will take place on Thursday, September 27, 1990, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD-364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366, or Anne Svoboda at (202) 224-6836.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on abuses in Federal student aid programs.

These hearings will take place on Friday, October 5, 1990, at 9 a.m., and on Wednesday, October 10, 1990, at 9:30 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 26, at 2 p.m., to hold a hearing on oversight of the U.S. position in GATT negotiations affecting American manufacturing jobs.

The PRESIDING OFFICER. Without objecton, it so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARK AND FORESTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 2 p.m., Wednesday, September 26, 1990, for a hearing to receive testimony concerning S. 2474, to authorize an exchange of lands in South Dakota and Colorado; section 6 of S. 2543, the Admiralty Island National Monument Land Management Act of 1990; S. 2815, to establish the Kokapelli National Outdoor Theater in the State of Utah, and for other purposes; S. 2816, to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the act of June 4, 1897 (30 stat. 11, 36), and for other purposes; S. 2891, to authorize and direct an exchange of lands in Colorado; H.R. 2566, to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes; and H.R. 3888, to allow a certain parcel of land in Rockingham County, VA, to be used for a child care center.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Wednesday, September 26, 1990, at 10 a.m. to conduct a hearing on S. 3045, a bill to authorize the Federal Deposit Insurance Corporation to increase deposit insurance premiums to protect the Bank Insurance Fund.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 26, at 2 p.m. to hold ambassadorial nomination hearing.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 26, at 4 p.m to hold ambassadorial nomination hearing.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 26, 1990, to hold hearings on abuses in Federal student aid programs (part 3).

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

ADDITIONAL STATEMENTS

GRAMM-RUDMAN SEQUESTER

● Mr. BINGAMAN. Mr. President, as we all know, the budget negotiations are coming down to the wire. I am still hopeful that an agreement on the budget will be reached this week. But whatever happens the rest of this week, it makes no sense to allow the Gramm-Rudman cuts of over 40 percent in many defense and civilian programs to go into effect. Gramm-Rudman will require $105.7 billion in cuts in a limited number of programs constituting a small fraction of the Federal budget, but terribly important to the economy of my State and the Nation as a whole.

The budget summiteers have already rejected that approach, aiming instead for a package of $50 billion in spending cuts and tax increases in fiscal year 1991, and $500 billion in deficit reduction over 5 years. Many of the spending cuts would target entitlement programs, largely exempt from Gramm-Rudman cuts. If we let the sequester go into effect, we will not only disrupt Federal programs and break faith with Federal workers. We will also risk throwing our already fragile economy over the edge into recession as, for example, disruptions in air service caused by furloughing air traffic controllers take their toll on the private sector.

Mr. President, it is important to reduce the deficit, but we need to do it sensibly. Gramm-Rudman has failed for 5 years to reduce our deficit despite a growing economy.

It has now become senseless and dangerous. I will vote to prevent the mindless sequester from going into effect on October 1. We should not need chaos to force the President and the congressional leadership to reach a sensible compromise on long-term deficit reduction. Gramm-Rudman should be scrapped.●

THE CSCE SUMMIT

● Mr. DECONCINI. Mr. President, early next week, each of the States participating in the ongoing conference on Security and Cooperation in Europe [CSCE] will send their foreign ministers to New York City. There, they will review and evaluate the progress of the preparatory committee for the CSCE summit scheduled for mid-November in Paris.

This is a vital time in the CSCE, or "Helsinki" process. East and West Germany will be formally unified on October 3, and, in Paris, the 34 nations that remain full members of the conference will be working to determine its future. But just as the number of participating states decreases from 35 to 34, other states are petitioning to join in a process which has, over the 15 years it has been in place, worked effectively to uphold standards of security and human rights.

Both the New York and Paris meetings will have to address the issue of CSCE participation for Latvia, Lithuania, and Estonia, the three Baltic States illegally incorporated into the Soviet Union in 1940. The United States stance on Baltic participation in the Helsinki process must be principled and firm.

Full Baltic membership in the CSCE would reflect full Lithuanian, Latvian, and Estonian independence, and would be consistent with the United States policy of nonrecognition of the Soviet incorporation of those states. This is an outcome which I favor; I have, on numerous occasions, spoken in favor of United States recognition of Baltic independent statehood. To this end I have urged Soviet President Gorbachev to undertake good faith negotiations to restore de facto Baltic independence. While a renewed Baltic-Soviet relationship is being worked out, however, the Baltic States should, at the very least, be welcomed into the Helsinki process as observers.

I believe strongly in the CSCE process, and seek to uphold all of the principles enshrined in the 1975 Helsinki accords. In this spirit, I urge the United States Government, consistent with our long-standing policy of nonrecognition and in accordance with the expressed Baltic desire to join in the Helsinki process, to propose that action be taken upon this request at the earliest possible date.●

SELF-DETERMINATION IN NAGORNO-KARABAKH

● Mr. BIDEN. Mr. President, I have been watching with concern the worsening situation in Nagorno-Karabakh in recent weeks, and thinking about the United States' role in addressing it.

When a country as large and strategically important as the Soviet Union undergoes change as profound as it is today, it alters the basic equations on which American foreign policy is based. We must anticipate this and calculate what the new terms of the equation are likely to be, and try to influence them where we can.

One of the fundamental elements in any new equation we may derive to deal with the nationalities crisis in the Soviet Union must be the recognition of the right of self-determination. It has long been, and must continue to be, the international role of the United States to support, clearly and strongly, the right of self-determination.

That is why today I bring to the attention of the Senate the situation in Nagorno-Karabakh, a region within the Soviet Republic of Azerbaijan. Nagorno-Karabakh has not had the fortune of other regions in the Soviet Union and Eastern Europe to push off, at least a little, the oppressive hand of centralized Soviet control. Rather, the Armenian majority population of Nagorno-Karabakh has suffered under the Soviet fist, as the Kremlin has sought to suppress Armenian moves for self-determination through the use of forced evacuations, rail blockades, armed troops, and violence. The situation has only worsened since the republic of Armenia issued a declaration of independence in August.

Whatever policy the United States might develop toward a new Soviet Union, we must place the right of self-determination at its center. Nagorno-Karabakh only reminds us of the need, and the responsibility, of the United States to let it be known to the whole world that we condemn the suppression of free speech and expression everywhere, condemn the use of force to silence those who seek freedom, and recognize the right of all peoples to decide for themselves the form of government under which they choose to live. I urge the Soviet authorities to remember that despite whatever attempts they make to move toward the western community of nations, and however laudable some of those attempts may be, they cannot be accepted until they also recognize the basic rights of all people. They would be well-advised to start with the Armenians of Nagorno-Karabakh.●

CONGRATULATIONS TO MS. JOANNE S. GRAY—AN OUTSTANDING ILLINOIS TEACHER

● Mr. SIMON. Mr. President, as you know, I have been a strong advocate for education reform. We must improve our school system if we are to remain a top competitor in the world economy. If we do not address the problems in our schools, and provide the young with the tools necessary to compete in this increasingly technological society, then we will have failed as a great nation. Our best investment is in our people.

A fundamental problem in the education system is the conditions facing teachers. We have to value our teachers more highly. In Japan, teachers make approximately the same as a lawyer or a physician. In Japan teachers are in the top 10 percent of the population in income. In the United States, teachers make far less than most other professions, and the average teacher makes only marginally above the national average income. Money is not everything, nor is it the sole reason teachers enter or leave the profession. But it certainly is an important factor. Among other things its sends a message to those attending college about how much our society values their contribution. We are fortunate to have many fine, dedicated teachers, but the future for them is discouraging. As one teacher put it, "without teachers, there would be no other professions."

Mr. President, I possess a great deal of respect for the people that strive for excellence within the teaching profession. I would like to tell you about one outstanding teacher from Chicago, IL, Ms. JoAnne S. Gray. Ms. Gray represents one of those fine, dedicated teachers. Last month, she was awarded the Midwest Regional Excellence in Teaching Award presented by the National Council of Negro Women. Ms. Gray embodies the characteristics of the ideal teacher. Simply put, she loves to teach and she loves her students. As a science teacher, she motivates her students to view the sciences as an intriguing and integral part of the world around them. Engaging them and challenging them to be curious and inquisitive about science. She is a strong role model for her students, and many of her former students have gone on to successful careers in the sciences.

I commend Ms. JoAnne S. Gray, and offer my sincere congratulations to her on winning the Midwest Regional Excellence in Teaching Award. I ask that my statement appear in the CONGRESSIONAL RECORD.●

APPROPRIATIONS COMMITTEE REVIEW OF PROPOSED RULE TO END BORDER INSPECTIONS OF CANADIAN MEAT AND POULTRY PRODUCTS

● Mr. DASCHLE. Mr. President, the Department of Agriculture is proceeding with a proposed rule to end border inspections of meat and poultry products from Canada offered for importation into the United States. As I have stated on previous occasions, this proposal is not consistent with U.S. law. Its legality has been questioned by the General Accounting Office and the USDA Office of General Counsel.

The change in regulations means that U.S. inspectors will no longer conduct random inspections to check compliance with U.S. food safety and quality laws. The immediate proposal is for a 1-year experiment under the so-called open border agreement between the United States and Canada. At the end of the year, the experiment will be evaluated with the intention of making the agreement permanent.

The comment period on the proposed rule closed September 5. I have seen reports that USDA received more than 2,000 negative comments on the rule. Nevertheless, USDA plans to disregard these comments and go ahead with the rule.

Representatives DORGAN and WILLIAMS and I wrote to Secretary Yeutter on Monday to urge that he withdraw the proposed rule. Furthermore, we urged that USDA improve the current inspection procedures in three ways: First, determine why large amounts of meat from Canada are not meeting United States standards when they enter at the North Dakota and Montana inspection stations; second, evaluate the current Canadian meat inspection system, and document this evaluation, to provide a sound basis for possible future experiments in relaxed inspection procedures; and third, reinstate the system, which was abandoned in 1988, that made all shipments of Canadian meat into the United States subject to border inspections.

I urge the Appropriations Committee on Agriculture, Rural Development and Related Agencies to review this proposal in hearings on next year's appropriations, and to consider whether or not an "experiment" of this nature, that violates U.S. law and that ignores the intent of Congress, is an appropriate use of taxpayer funds.●

INNOVATION IN A SMALL TOWN AND THE GROWTH OF COMMUNITY SPIRIT

● Mr. WIRTH. Mr. President, the small town of Wray, CO, lies nearly at the Colorado-Nebraska border. With a population of 2,000 people, it rates only the smallest of little dots on a road map. But I think there is a town spirit in Wray that puts it on the map in a much bigger way.

The people of Wray have initiated a community program called the Search for Solutions. This is a broad-based effort to raise money from private sources to find community facilities. Currently, the people of Wray are renovating a 29,000 square-foot building that will eventually house a variety of community activities, including meeting rooms for the Boy Scouts and 4-H Club, school rooms for continuing education programs, and special rooms that will make it possible for local satellite broadcasts to take place.

The price of rehabbing this building is close to $4 million. The people of Wray have raised nearly half of that amount—$1.8 million—and have put another $90,000 into a new trust fund that will provide money in the future for similar renovation projects.

Much of the success of the Search for Solutions lies with a Wray community leader, Mike Wisdom. Mike has been the inspiration for renovating the old building and using it to enhance community life in Wray. Yet, while undertaking this serious project, Mike has kept his sense of humor.

One of the most successful fundraising techniques that Mike has employed has been to offer honorary Mayor for a Day certificates. For a small fee, any person can be mayor of Wray for a day. In fact, Mike has advertised this opportunity across the country, including in the local Washington area on WAVA-FM radio. It was on WAVA that Ms. Kathy Hill, a resident of Burke, VA, heard about becoming mayor for a day and applied. Ms. Hill has become so charmed with the idea, that she tells me it is one of her favorite gifts to give to friends. Ms. Hill wrote me to tell me of her pleasant experience with Mike Wisdom and the city of Wray which is where I first learned of Mike's ingenuity in fundraising. Mr. President, I ask that the text of Ms. Hill's letter be printed in the RECORD following my remarks.

Other fundraising efforts that Mike has initiated are just as much fun. For example, Wray occasionally hosts rubber duck races, moonlight golf tournaments, and—my favorite—radar baseball. Radar baseball is a competition where the event organizers borrow the police department's radar gun and clock the speed of balls pitched by the contestants.

But everything is not fun and games in Wray. The commitment of the residents to improving their city comes straight from the heart. All the work on the rehab project is being done by local people, some of whom have turned down better paying contracts in other parts of the State just to stay in town and do something for the good

of the city. I think there is a lesson here that many other cities and towns can learn, no matter their size. It is working together and caring together that makes where we live worthwhile.

Mr. President, I want to congratulate the people of Wray and Mike Wisdom for their dedication to their community and to thank them for setting a sterling example for others to follow.

The text of the letter follows:

Burke, VA, July 24, 1990.

Hon. TIMOTHY WIRTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR WIRTH: I am writing this letter to bring to your attention one of the greatest natural resources Colorado has to offer. This natural resource has been very successfully hidden by the good people of Wray, Colorado. They know a good thing when they have one. The natural resource I am referring to is a gentleman by the name of Mike Wisdom. Mike is head of the WRAC office in Wray. This office is responsible for all those special fairs, parades, and money making activities that every little town across the nation enjoys. Mike is that special person that it takes to make these events successful.

I came across Mike Wisdom quite by accident. I heard on a local radio program, WAVA that for $20 a person could become Mayor of Wray, Colorado for a day; for a birthday, anniversary, or any other special day. For your contribution, you receive a certificate stating that you are Mayor for that day, and a proclamation stating so. What a wonderful idea. In the process of purchasing several days, I came to know, by long distance, what a jewel Wray has in Mike Wisdom. Mike is always thinking, looking, listening for new ideas to promote his town and also finance projects such as youth or senior citizen programs. I don't know all of the wonderful things that Mike has done for his community, but I would bet anyone from Wray would be happy to tell you.

People like Mike Wisdom don't come along often enough in life. The small town of Wray should be and probably are very proud of their citizen. Mikes devotion to Wray has gone unnoticed much to long. I ask that a short letter would be sent to Mike acknowledging his work and love for his community. I am not a tax payer or constituent of Colorado, but as a ex-Texan from a small town and now a resident of Virginia, I would appreciate your acknowledging Mike for a job so very well done!! He really deserves a pat on the back.

Thank you for your time.

Kind regards,

KATHY A. HILL.●

SELF-DETERMINATION FOR THE ARMENIAN COMMUNITY OF NAGORNO-KARABAGH

● Mr. WILSON. Mr. President, the democratically elected leader of Armenia, Levon Ter Petrossian, will visit the United States later this week. I urge all of my Senate colleagues to welcome this courageous stateman and support him in his efforts to secure the political, economic, and cultural rights of his people.

Thus far, President Ter Petrossian, a former political prisoner, has shown great resourcefulness in defending the prerogatives of the citizens of Armenia against the insensitivity of the Soviet Government and the brutality of the Azerbaijani police.

He has successfully negotiated a reversal of Mikhail Gorbachev's order for Soviet military occupation of Armenia.

He has ushered a strong Declaration of Independence to passage in the Armenian Parliament.

He has consolidated his government's control over Armenian irregular forces.

And most importantly, Mr. President, he has won the overwhelming support of this own people.

Despite these dramatic gains, however, the Armenian nation has not yet emerged from the wilderness of injustice and repression that surrounds it.

Following the country's August 24 Declaration of Independence, the Armenian community of the Nagorno-Karabagh Oblast faced a dramatically increased level of violence from both Soviet and Azerbaijani troops. This most recent tragedy only illustrates the larger 70-year tragedy of the refusal of Azerbaijan, which rules Nagorno-Karabagh, to permit the Armenians of this area to peacefully reunify with their homeland.

Furthermore, Mr. President, on September 10, a prominent Armenian member of the Supreme Soviet, Zori Balayan, began a hunger strike in Moscow to protest the actions taken by both the Moscow and Azerbaijani authorities against his brothers and sisters of Nagorno-Karabagh. Several other legislators have since joined Mr. Balayan in his strike.

Can the Soviets, Armenians, and Azerbaijanis find a way out of this cycle of misery and tyranny? Absolutely—if all parties to this conflict acknowledge the morally indisputable rights of the Armenian people to control their own land and elect their own leaders.

As a result, I sent a telegram to President Gorbachev 3 days ago notifying him of my solidarity with Mr. Balayan and his fellow hunger strikers. Their silent yet painful witness gives us a powerful reminder of the violence that the Armenian men and women of Nagorno-Karabagh have suffered under the occupation of the Azerbaijani government.

Although Armenians comprise more than 80 percent of the population of Nagorno-Karabagh, successive Azerbiajani rulers have implemented policies designed to drive the Armenian people out of the area. They have done little to encourage the economic development of the region and have only aggravated the tensions between the predominantly Christian Armenians and the Moslem Azerbaijanis.

Mr. President, the way out of this crisis points in the direction of self-determination for the Armenians of Nagorno-Karabagh.

It points in the direction of a withdrawl of all Soviet and Azerbaijani military forces from the region.

It points in the direction of an Armenian community living peacefully in Nagorno-Karabagh, free from threats of imprisonment, murder, or forced resettlement.

The United States must hold the Kremlin accountable for the policies of the Soviet Union's constituent republics if they violate basic human rights or discriminate against entire ethnic communities because of their ethnic and religious heritage.

In this context, President Gorbachev must recognize the direct relationship between permitting the reintegration of Nagorno-Karabagh with Armenia and the attainment of this stated goals of bringing more social stability, material prosperity, and political pluralism to his nation.

The solution to this problem exists, Mr. President. It only awaits implementation by a willing Armenian Government and a realistic Soviet state.●

WHITE HOUSE KNOCKS ETHANOL

● Mr. HARKIN. Mr. President, during the debate on amendments to the Clean Air Act, Senator TOM DASCHLE and I successfully attached reformulated gasoline provisions that require the use of oxygenated fuel additives such as ethanol. We also maintained a 3.1 percent oxygen content in gasoline sold in those areas with excessive carbon monoxide pollution. By replacing some of the poisonous ingredients of gasoline with ethanol, we can simultaneously improve air quality, increase markets for corn, and reduce our dependence on foreign oil. Indeed, by tripling our production of corn-based ethanol, we could replace all of the oil lost from Iraq and occupied Kuwait.

President Bush supported the use of corn-derived ethanol while he was running for office. But now the White House has come out against the reformulated gasoline and oxygenated fuel provisions in the Clean Air Act. Once again his actions speak louder than his campaign promises.

Last Friday, the White House sent a letter to the clean air conferees. The administration objected to oxygenated fuel provisions of both the Senate and the House bills, claiming that it would cost too much, that it need not apply to all cities with excessive carbon monoxide pollution, and that the oil companies need more time to implement these provisions.

I am greatly disturbed by this shift away from the sound environmental causes expounded by the President

when he was running for office. Listen to George Bush, the candidate, speaking in Des Moines on March 6, 1987:

If we raise the standard of American fuel to require that all our gasoline contained ethanol blends in areas of the country that violate carbon monoxide pollution limits, we would stimulate growth and opportunity in Iowa and throughout the Farm Belt and improve air quality in Chicago, Denver, Los Angeles, Albuquerque, Phoenix and other major cities.

Later, on November 12, 1987, he went further, stating in Kansas City that:

We should establish a clean fuel standard and require that fuel sold in areas that exceed federal standards for carbon monoxide contain at least three percent oxygen by weight.

Now President Bush, when he has a chance to implement these campaign pledges, tells Congress that we should limit ethanol blends to just the most serious carbon monoxide nonattainment areas.

Candidate Bush said that:

Greater use of ethanol blends will on balance produce net savings for the taxpayer by reducing grain storage costs and price supports.

Now President Bush says that adding oxygenated fuels will cost taxpayers and extra $3 billion per year.

Candidate Bush also said:

I share the goal of the National Corn Growers that by 1990, we can produce 2.5 billion gallons of ethanol from 1 billion bushels of corn. It will help our farmers and manufacturers, while contributing to cleaner air and energy independence. We should make full use of this great American resource.

Now President Bush says that oil companies need more time, even though the Daschle-Harkin amendment would require about 1.5 billion gallons of ethanol by 1994, 4 years after candidate Bush stated that we should be producing 2.5 billion gallons.

I am greatly disturbed that President Bush is blocking effective implementation of the clean fuels provisions in the Clean Air Act. He wants to be remembered as the environmental President, but he isn't willing to make the choices to protect the environment.

Ethanol is good for clean air, good for our farmers, good for our taxpayers, and good for energy independence. It is time that President Bush listens more to candidate Bush than to the big oil companies that would just as soon continue supplying gasoline loaded with benzene, a carcinogen; toluene, which forms benzene during combustion; and xylene, which forms smog), instead of clean-burning ethanol.

I urge our colleagues on the Clean Air Conference to maintain the reformulated gasoline and the 3.1 percent oxygenated fuel provisions in all carbon monoxide nonattainment areas of our Nation.●

MILTON, DE; HISTORY AND THE FUTURE

● Mr. BIDEN. Mr. President, "Governors Day" in Milton, DE, celebrates the history of that Sussex County town by remembering the achievements of the four men of 19th century Milton who served as Governors of Delaware. However, the history Milton celebrates on Governors Day is not a retreat into the past but a springboard into the future of a town that has long since proved its vitality.

It takes only a brief glance at the history of the town to realize that Milton has long been just what it is today, a solid, prosperous, four-square town whose homes and churches, commerce and industry are the concrete reflections of this community's long dedication to what we know as traditional American values—self-reliance, hard work, personal morality, civic responsibility, a decent respect for the past, and an ambitious welcome for the future.

It is unfortunately common these days, Mr. President, to hear those American values referred to as the relics of a bygone era in our history—the era when Milton flourished and produced the sons who became Delaware Governors—but I am not so sure these values are as dated, or should be, as some popular commentators would have us believe. They are still evident in Milton, DE, today, and I suspect they are not unknown in many American communities all across this broad land. Maybe what has become dated is the perspective with which our commentators, and even some of us in Congress, regard our country in this year of 1990. Maybe—and more than maybe, I believe—Milton's values flow nearer to the mainstream in this country than such commentary would lead us to believe.

At any rate, there is not doubt at all that those values have been central to life at the head of the Broadkill River, in what is today southern Delaware, since the first colonial farmers cleared the land and established their homesteads more than 300 years ago, in 1686. The settlement that took root here at the head of navigation on the Broadkill grew steadily, under a variety of names, for more than a century. Then in 1807 the name of the town was officially changed from "Head of Broadkill" to "Milton," in honor of the famous English poet, and the community embarked upon a prosperous 19th century.

Even then, with four stores and seven granaries within the town, Milton was already an important port for the shipping of the grain grown in Sussex County's fertile fields; and given the vigor of the community, it is not especially surprising that during the middle 50 years of the 19th century, four of Milton's most distinguished sons were elected Governor of Delaware—Samuel Paynter in 1824, David Hazzard in 1830, Dr. Joseph Maull in 1846, and James Ponder in 1875. At any time in our history, for one town to give birth to four Governors would be especially noteworthy—but Milton, in fact, produced still another Governor, although not of Delaware. He was James Carey; he was elected Governor of Wyoming, and he may very well be the only Delawarean ever honored with a place in the Cowboy Hall of Fame.

During the same half-century that Milton spawned such outstanding leadership, the town itself continued to grow in importance, and by the time it was incorporated in 1865, it was a thriving commercial and industrial center. Shipping and shipbuilding were the major enterprises, and firewood and ship timbers had joined grain as the major commodities forwarded on shipping lines that plied regular schedules to Wilmington, Philadelphia, and New York. Other important industries included tanning and brickmaking, and Milton ranked among the principal commercial ports along the Atlantic coast.

The advent of steel ships and railroads changed the character of Milton's commerce by the time the 19th century ended, but it did not sap the energies or the ambition of Milton's citizens. The town has continued to be a social and commercial center for Sussex County throughout the 20th century, and today Milton offers its people a solid foundation from which to step into the new century that lies just ahead.

Nothing is more important, I believe, to any community's sense of its own identity, and to its ability to shape its own destiny, than a sense of its own history. The destiny of this Nation began, in fact, with a dream—not in the utopian delusions of wild-eyed visionaries, but in disciplined dreams of a remarkable group of practical and experienced men of action who had studied the history of men, nations, and governments, who had consulted the spirit of freedom that reigned in their own hearts, and who were therefore capable of dreaming of a new kind of government that would impose the fewest necessary restraints on a people and endow them with the greatest possible degree of personal liberty, knowing full well, as the great Irish poet William Butler Yeats would later write, that "in dreams begins responsibility." Their dream, and our responsibility for preserving and extending it, is our heritage as Americans; it remains our dream and we can preserve and extend it only so long as we know and appreciate its history.

Americans generally have preserved a lively sense of their history, and there is a very good historical reason for that. The fact is that this country

was founded with a very clear appreciation of its role in history. When the Founding Fathers met in Philadelphia more than 200 years ago to draw up our Constitution, they were very much aware that they were preparing a document that was not only unique in the history of America but in fact unique in the history of the world.

Their immediate purpose was to create a Constitution that would both govern a viable new American Nation and shape a new kind of American society, but their deliberations at that Constitutional Convention were influenced from beginning to end by their certain belief that both that society and the great document that sustained it would become models, not only to new generations of Americans but, in fact, to freedom-loving peoples all over the world.

The history of the past two centuries—and the events of our own day, both at home and abroad—have amply justified that certainty. Just two contemporary examples tell us how right they were.

In just the past 2 years, it is that very model of our successful American experiment in democracy that has energized the peoples of Eastern Europe and even the Soviet Union to break the bonds of Communist domination and seek the political and economic opportunities we have enjoyed for 200 years as a free, self-governing people. We have seen only the barest beginning of that movement, but it has already carried the world across one of the most significant thresholds in human history. Both we and they will no doubt have to overcome many great challenges before that process achieves its fullest expression, but if both we and they meet our responsibilities to history, the issue should not be in doubt. Liberty is a flame that, once lit, is all but impossible to quench in the hearts of a people who find themselves free to pursue their own destiny.

We have all been surprised by the speed with which this democratic revolution has swept aside the barriers of totalitarianism, but there is good reason to believe the Founding Fathers would not have been surprised; they knew they were throwing down the gauntlet to tyranny everywhere and they were confident of the outcome of that contest.

I believe the Founding Fathers would be equally unsurprised by the character of the task that at this very moment lies in the hands of the Senate Judiciary Committee, which I chair in Washington—the confirmation of a nominee to serve as Associate Justice of the Supreme Court of the United States. The dialog the committee conducted with Judge David Souter of New Hampshire to determine his suitability to serve on the Supreme Court, and the debate which will follow in the Senate, answer precisely to the design so carefully laid down in the Constitution.

Until the closing days of the Constitutional Convention, in fact, the delegates refused to allow the President any role at all in the selection of Supreme Court Justices—it was to be the responsibility of the Senate alone. Then, in a last-minute compromise of lasting wisdom, that responsibility was divided equally between the President and the Senate—the nomination of a Supreme Court justice is the prerogative of the President alone, but the appointment can be confirmed, according to article 2, section 2, of the Constitution, only "by and with the consent of the Senate."

That is a heavy responsibility for both the Senate and its Committee on the Judiciary—and a responsibility of which I am especially aware as chairman of that committee—but it is also a responsibility that we welcome, even at times at the cost of controversy to share in fulfilling the obligations and the promises of the Constitution; to assure a Supreme Court determined to protect all of the rights of the people, both those enumerated in the Constitution and those left in the hands of the people themselves by that same great document; and to preserve, for the American people and for those elsewhere in the world who look to us as the model for their own aspirations, the free and democratic society our founders envisioned for us. It is hard work to manage a process on which so much history, and so much contemporary interest, come to so sharp a focus, but it is also a very great privilege to labor in that historic perspective.

It has been said that a nation which forgets the lessons of its history is condemned to repeat them, and the experience of nations has proved that to be true. But I believe that the contrary of that statement is equally true, especially for the United States of America, a nation that remembers the lessons of its history and can use them constructively to build its own future, and I believe that proposition applies with equal strength to a community like Milton, which has set aside one day each year, Governors Day, precisely to remember its history and build upon it.

That does not mean that either our country or this community can improve our control over our future by attempting to relive even the greatest days of our past. Attempting to substitute nostalgia for a clear-eyed sense of history and its implications for the future is bound to result not simply in failure, but ultimately in a departure from reality that no one can characterize as progress. That's an old lesson we've had to relearn from time to time, as we try to distinguish between the wasteful and intrusive excesses of government and the necessary and permanent responsibilities of government. If we want to sustain our personal liberties and our national prosperity, we cannot afford the excesses—but if we expect to remain the great Nation we have been and to become the even greater Nation we can and should become, neither can we afford a Government that does not meets its responsibilities.

Unfortunately, that is not always an easy distinction to make; it is often not as clearcut as it seems, and too often—as for example, with some recent Supreme Court nominations—we are urged to turn the clock back to some simpler and supposedly better day, rather than to undertake, as the Senate Judiciary Committee is attempting to do with the Souter nomination, the much harder and much more complicated task of resolving our problems in terms that move us forward and not backward. We can not move ahead by simply retreating into our history; progress lies, rather, in understanding our history and using it to construct new solutions, to find new pathways into the future. And that is exactly what I believe this great old town of Milton, DE, with its long and proud history, is doing with Governors Day, because Milton, obviously, has not merely clung to existence, but has survived and progressed with a strong sense of its past, a firm grip on its identity and an abiding belief in its future.

Governors Day in Milton, DE, is, therefore, a living expression of the spirit that made America great and will keep it great. It becomes Milton well, it fortifies the spirit of the State of Delaware, and I believe it exemplifies the pride and optimism with which Americans have always regarded and I believe always will regard the land of their birth, the land of the free, and the beacon of liberty to all mankind.●

STATUS OF OBLIGATION FOR FISCAL YEAR 1990 DEPARTMENT OF DEFENSE COUNTERNARCOTICS FUNDS

● Mr. D'AMATO. Mr. President, I rise today to discuss the status of obligations for fiscal year 1990 Department of Defense counternarcotics funds.

On July 31, 1990, I received figures from the Department of Defense that showed the status of the counternarcotics account as of May 31, 1990. The obligation rate appeared quite slow and I was concerned that 1-year operations and maintenance and military personnel funds might lapse at the end of fiscal year 1990. On August 1, 1990, I wrote to Secretary Cheney to request his assurance that none of these funds would lapse.

On August 3, 1990, I spoke on the Senate floor during consideration of

the fiscal year 1991 Defense authorization bill to inform my colleagues of this situation. Finally, on August 10, 1990, I wrote to Comptroller General Charles Bowsher to request that the General Accounting Office prepare a fact sheet on the status of Defense Department counternarcotics obligation rates.

It was my intention to give the Department of Defense an opportunity to explain the circumstances surrounding the slow obligation rates. The figures alone, only a static indication, did not provide an adequate picture of the progress and/or problems associated with the account. If there were legitimate reasons why the funds were delayed then that needed to be brought to light and, similarly, if there were legitimate problems associated with the management of the account then that needed to be addressed as well.

I asked GAO to: First, look at the status of counternarcotics funds for fiscal year 1990; second, ascertain the reasons for any delays in obligating the funds, particularly operations and maintenance and military personnel funds; and third, compare the rate of obligation for counternarcotics funds to obligation rates for Defense programs of a similar nature. I wanted a review completed in time for the consideration of the Defense appropriations bill.

Given the short time that GAO was directed to respond in, it was unable to verify the Defense Department's financial information or the accuracy of the explanations for delays provided by program and budget officials.

For fiscal year 1991, the Defense Department's counternarcotics request is for $1.2 billion. There is no question that Defense officials have put much hard work into planning and executing counternarcotics programs and that there are growing pains associated with this relatively new program. Nevertheless, in a time of fiscal constraint and in a time when the drug crisis has reached epidemic proportions, we must ensure that: First, the funds appropriated for the Defense Department counternarcotics mission are spent in a timely fashion; and second, the funds appropriated are spent on worthy programs.

Mr. President, I ask that a copy of the September 1990 GAO report, my August 1, 1990, letter to Secretary Cheney, and September 4, 1990, response letter from Assistant Secretary Duncan, and my August 10, 1990, letter to Comptroller General Bowsher be printed in the RECORD immediately following the conclusion of my remarks.

The material follows:

U.S. SENATE,
Washington, DC, August 1, 1990.

Hon. RICHARD CHENEY,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: The commitment of both you and President Bush to an enhanced and expanded role for the Department of Defense in the detection and montoring of drug trafficking and in assisting law enforcement is one which I strongly support.

I am, however, greatly concerned about the following information that I have just received. Yesterday, I received figures which reflect the status of the counternarcotics account (obligations only) as of May 31, 1990. Enclosed for your information are the figures which were forwarded to my office by the Office of the Coordinator for Drug Enforcement Policy and Support.

Of the $645,192,000 available in the counternarcotics account, $178,822,000 has been obligated.

With two-thirds of the fiscal year completed, only $51,169,000 of $181,400,000 available for Operations and Maintenance accounts has been obligated for the armed services to increase their operational tempo for, among other things, increased steaming days for ships and flying hours for surveillance aircraft.

With only one-third of the fiscal year remaining, $130,000,000 will have to be obligated or these funds will lapse.

As of May 31, no reimbursement had been made to law enforcement agencies from the $40 million account earmarked for assistance to law enforcement.

Only $261,000 out of $10,400,000 available for Research, Development, Testing and Evaluation has been obligated.

Only $5,232,000 out of $221,529,000 available for Procurement has been obligated.

At a time when the drug epidemic has reached crisis proportions and the American people look to the Federal government for desperately needed help, it is extremely unfortunate that the $466,370,000 available in FY 1990 funds had not been obligated as of May 31.

I would greatly appreciate it if you could, within two weeks, provide me with updated material that reflects obligations and expenditures as of July 31, 1990.

I am also requesting your assurance that none of these funds will lapse and that they will all be obligated by September 30.

I know that you share my deep concern and that you will expeditiously look into this matter. I look forward to hearing from you.

Sincerely,

ALFONSE M. D'AMATO,
U.S. Senator.

U.S. SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL,
Washington, DC, August 10, 1990.

Hon. CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: As you know, the fiscal year 1989 National Defense Authorization Act gave the Department of Defense significant new counternarcotics responsibilities that include serving as the single lead agency of the Federal government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. To permit the Department to carry out this mission, Congress appropriated $300 million in fiscal year 1989, and $450 million in fiscal year 1990. The Administration's request is for $1.2 billion for fiscal year 1991.

As Co-Chairman of the Senate Caucus on International Narcotics Control, I commend Secretary Cheney's decision on September 18, 1989, to declare that combatting illegal drugs is a high priority national security mission for the Department. However, I was distressed to learn that the Department of Defense has been very slow to obligate funds once appropriated.

In view of the above, I am asking the General Accounting Office to look at the status of counternarcotics funds for fiscal year 1990; ascertain the reasons for any delays in obligating the funds, especially Operations and Maintenance and Military Personnel funds; and compare the rate of obligation for counternarcotics funds to obligation rates for defense programs of a similar nature.

I would appreciative receiving the results of your review before the fiscal year 1991 Defense appropriation bill comes to the Senate floor for a vote.

Sincerely,

ALFONSE M. D'AMATO,
Co-Chairman.

DEPARTMENT OF DEFENSE, COORDINATOR FOR DRUG ENFORCEMENT POLICY AND SUPPORT,
Washington, DC, September 4, 1990.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: Thank you for your letter of August 1, 1990 to Secretary Cheney, in which you reaffirm your strong support for the Department's role in the implementation of the President's National Drug Control Strategy, and express concern for the status of counternarcotics funding obligations as of May 31, 1990.

I fully appreciate your concern and assure you that the Department's counternarcotics program is consistently afforded a very high priority. With respect to the May 31, 1990 obligation data provided in response to your staff inquiry, several comments are offered. First, as described in the Department's June 22, 1990 letter to the Chairmen of the cognizant Authorization, Appropriations, and Intelligence Committees, FY 1990 counternarcotics activities are funded either (1) within the $450 million Congressional authorization and appropriation; (2) as part of the military department's baseline (Operational Tempo (OPTEMPO) and Demand Reduction); or (3) through reprogramming requests submitted to the appropriate committees of Congress. The concurrence of the committees on the six reprogramming requests was not received until August 1, 1990. The appropriate funding transfers for those actions are now in progress. Accordingly, the obligation process for these funds will begin shortly.

We have diligently pursued providing support to law enforcement agencies under the authority contained in Section 1212 of the FY90 Authorization Act. This authority enables the Secretary of Defense to provide up to $40 million of support within five specific categories; (1) training of personnel; (2) loan of National Guard equipment; (3) maintenance of equipment on loan; (4) transportation of equipment and personnel; and (5) establishment of bases of operation. We have, from the outset, worked very closely with the many law enforcement agencies to define their requirements. As in any new program, there have been "growing pains." For example, a major difficulty has been

the inability of the law enforcement agencies to define their requests succinctly within the authorized categories to satisfy appropriate legal review.

As of August 14, 1990, $3,875,000 of support using Section 1212 authority has been provided. An additional $5M of support requests are under final review prior to execution. There are a significant number of other requests currently under review to determine if they are in compliance with the statute. Given the progress we have made in defining the process for this special support and the enactment of the clarified and expanded authority as proposed in the FY91 Senate bill, I suggest that obligation levels will be considerably higher next year.

Although the National Guard obligation data are comparatively low, the National Guard Bureau is very optimistic for full obligation of all National Guard funds. Specially, the majority of the eradication efforts occur during the summer months, the prime marijuana growing season.

Given the fact that the system for reporting obligations is normally 45 to 60 days behind the actual date of obligation, we cannot, at this time, give you complete figures as of July 31. I have enclosed, however, the most current figures that we have. If you believe additional information would be helpful, we can, if you desire, update this information around the middle of September.

I am sure you recognize that, with the exception of the operations and maintenance (O&M) category, the remaining appropriations are of a multi-year nature. Although I am concerned that these funds be obligated as soon as feasible, they will not lapse as of September 30, 1990. I am confident that we will fully obligate the O&M funds provided from the FY90 counternarcotics appropriations by the end of the fiscal year and the multi-year money within the legally permissible time.

Thank you for your continued interest and strong support for our expanded efforts in support of the counternarcotics program.

Sincerely,

STEPHEN M. DUNCAN.

COUNTERNARCOTICS OBLIGATIONS REPORT

[Reflects most current available obligations figures with date annotated, in millions of dollars]

Detection and monitoring	Fiscal year 1989 procurement		
Department/Agency	Available	Obligated	
a. Prior year funds:			
Air Force	70.802	53.100	As of June 30, 1990.
Army	2.950	2.950	No change since May 31, 1990.
Navy (ships)	17.674	1.000	No change since May 31, 1990.
Navy	35.896	11.166	No change since May 31, 1990.
Defense Agencies	62.503	30.812	As of July 31, 1990.
Total	189.825	99.028	
OPTEMPO fiscal year 1990 O&M			
b. Current year funds:			
Air Force	17.600	10.645	As of June 30, 1990.
Army	5.600	2.576	No change since May 31, 1990.
Army Guard	5.200	2.392	No change since May 31, 1990
Army Reserves	3.000	1.380	No change since May 31, 1990.
Navy	148.600	67.778	As of June 30, 1990
Navy Reserves	1.400	0.489	No change since May 31, 1990
Total	181.400	85.260	
Demand Reduction fiscal year 1990 O&M			
Air Force	6.200	4.650	As of June 30, 1990.

COUNTERNARCOTICS OBLIGATIONS REPORT—Continued

[Reflects most current available obligations figures with date annotated, in millions of dollars]

Detection and monitoring	Fiscal year 1989 procurement		
Department/Agency	Available	Obligated	
Army	42.700	40.461	As of June 30, 1990.
Army Guard	0.700	0.690	No change since May 31, 1990.
Army Reserves	0.800	0.536	No change since May 31, 1990.
Navy	30.200	24.700	As of June 30, 1990.
Navy Reserves	0.200	0.134	No change since May 31, 1990.
Marines	2.800	1.876	No change since May 31, 1990.
Defense Agencies	0.500	0.403	As of July 31, 1990
Total	84.100	73.450	
Detection and Monitoring Fiscal Year 1990 Procurement			
Air Force	111.387	0.000	No change since May 31, 1990.
Army	27.387	2.575	As of July 31, 1990.
National Guard	40.000	0.000	No change since May 31, 1990.
Navy	6.233	0.000	No change since May 31, 1990.
Defense Agencies	40.680	8.936	As of July 31, 1990.
Total	225.687	11.511	
Fiscal Year 1990 RDT&E			
Air Force	2.100	0.000	No change since May 31, 1990.
Army	1.500	0.000	No change since May 31, 1990.
Navy	2.000	0.000	No change since May 31, 1990.
Defense Agencies	4.800	0.779	As of July 31, 1990.
Total	10.400	0.779	
Fiscal year 1990 O&M			
Air Force	17.901	9.415	As of June 30, 1990.
Air Guard	2.685	1.046	As of June 30, 1990.
Civil Air Patrol	1.000	0.723	As of July 31, 1990.
Army	24.622	20.229	As of July 31, 1990.
Army Guard	10.946	4.239	As of July 31, 1990
Navy	10.629	5.766	As of July 31, 1990.
Marines	0.932	0.932	No change since May 31, 1990.
Defense Agencies	19.229	13.829	As of July 31, 1990.
Total	87.944	56.179	
Fiscal year 1990 MILCON			
Air Force	3.000	3.000	As of June 30, 1990
Navy	0.700	0.700	No change since May 31, 1990.
Total	3.700	3.700	
Fiscal year 1990 NG MIL PERS			
Air Guard	6.383	3.182	As of June 30, 1990.
Army Guard	49.986	35.755	As of July 31, 1990.
Total	56.369	38.937	
c. Summary:			
Fiscal year detection/monitoring.	189.825	99.028	52.17 percent.
Fiscal year 1990			
OPTEMPO	181.400	85.260	47.00 percent.
Demand reduction	84.100	73.450	87.34 percent
Detection/monitoring	384.100	111.106	28.93 percent.
Fiscal year 1990 total.	649.600	269.816	

Note.—These figures reflect the most current obligation status on August 10, 1990. The most current figures are as of June 30, 1990, except where noted. The variance in date of the figures stems from the individual Departments/Agencies ability to report actual obligations. The official DoD accounting system lags approximately 45 days behind the date the funds are obligated by field activities. OPTEMPO figures are only reported quarterly, therefore all OPTEMPO figures do not represent the end of the third quarter.

[U.S. General Accounting Office, Factsheet for Congressional Requesters, September 1990]

DRUG CONTROL: STATUS OF OBLIGATIONS FOR FISCAL YEAR 1990 DOD COUNTERNARCOTICS FUNDS

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
September 25, 1990.

Hon. ALFONSE M. D'AMATO,
Co-Chairman, Caucus on International Narcotics Control, U.S. Senate

Hon. JOHN CONYER, Jr.,
Chairman, Legislation and National Security Subcommittee, Committee on Government Operations, House of Representatives

This fact sheet responds to your request for information on the status of obligations for the fiscal year 1990 Department of Defense (DOD) counternarcotics appropriation of $450 million. Specifically, we (1) compared the obligation rates for counternarcotics funds accounts to obligation rates for similar defense program accounts and (2) ascertained the reasons for any delays in obligating counternarcotics funds.

RESULTS IN BRIEF

DOD's most current financial obligation data indicates that, as of July 31, 1990, obligation rates for counternarcotics appropriation accounts were generally lower than those for defense programs as a whole. According to DOD officials, delays in obligating counternarcotics funds are attributable to the late receipt of obligation authority, extensive and time-consuming reprogramming actions, DOD policy decisions requiring congressional approval, changes in counternarcotics programs required by the final appropriations act, sequestration deliberations, and apportionment issues.

COUNTERNARCOTICS PROGRAM OBLIGATION RATES

In comparing obligation rates of funds in the counternarcotics program accounts with comparable DOD-wide accounts, we found that the obligation rates for counternarcotics programs were lower for Operations and Maintenance (24 percent less); National Guard Military Personnel (13 percent less); Procurement (50 percent less); and Research, Development, Test and Evaluation (RDT&E) (73 percent less). The counternarcotics program's Military Construction account had an obligation rate 71 percent higher than the comparable DOD-wide accounts. Appendix I provides additional details on the obligation rates for both counternarcotics and DOD-wide accounts.

REASONS FOR DELAYS IN OBLIGATING COUNTERNARCOTICS FUNDS

Defense program and budget officials noted that the counternarcotics accounts require significant interagency coordination not necessary in managing most other DOD accounts, making it difficult to draw comparisons. They indicated that this extensive coordination lengthens the time required to obligate counternarcotics funds. For example:

Congress directed that all state National Guard plans be reviewed in coordination with the Attorney General of the United States.

Obligation of funds supporting integration of command, control, communications and intelligence assets into an effective network is predicated on the Drug Enforcement Telecommunications Implementation Plan schedule, for which the Office of National Drug Control Policy is responsible.

The ability to provide training and logistical support to law enforcement agencies is predicated on specific requests from them.

A significant portion of aerostat radar surveillance systems funding is dependent on the U.S. Customs Service, which is the contracting activity for these systems.

DOD officials cited the following additional reasons for delays in obligating fiscal year 1990 counternarcotics funds in accounts involving operations and maintenance, National Guard military personnel, procurement, and RDT&E.

Operations and Maintenance

Operations and maintenance funds are available only for obligation during the fiscal year for which they are appropriated. Delays in obligating the fiscal year 1990 funds resulted from late receipt of obligation authority (the Department of Defense Appropriations Act 1990 was not enacted until November 21, 1989), and extensive reprogramming actions required primarily by a congressional decision to appropriate counternarcotics funds to a central transfer account. These reprogramming actions required counternarcotics program managers to obtain internal and external approvals before funds could be distributed to the services and defense agencies for their use. These actions required time-consuming intra- and inter-departmental coordination.

DOD officials were unable to predict if funds appropriated for operations and maintenance will be fully obligated by the end of fiscal year 1990.

National Guard Personnel

National Guard personnel funds are available for obligation only during the fiscal year for which they are appropriated. A large percentage of National Guard support is provided to domestic marijuana eradication. The marijuana growing season is from July through September. National Guard personnel are not involved in the eradication effort until late in the fiscal year, and obligation of their pay and allowances is timed to this effort.

DOD officials believe that they will be able to obligate most of the funds appropriated for this account for counternarcotics activities by the end of fiscal year 1990.

Procurement

Procurement funds are available for obligation for 3 fiscal years following appropriation; therefore, first year obligation rates do not necessarily predict final obligation performance. The obligation rates for counternarcotics procurement funds appropriated in fiscal year 1990 are low because of extensive reprogramming requirements. Moreover, requested reprogramming and transfer requests submitted in April 1990 were not approved by the pertinent congressional committees until August 1990. Thereafter, an estimated additional 30 to 45 days of normal processing time elapsed before the funding documents were made available to the service or defense agencies by the DOD Comptroller.

The contracting process—advertisement for bids, resolution of small business set-aside issues, and screening and selection of vendors—normally requires an additional 4 months or more to complete. Procurement funds are obligated when a contract is awarded.

DOD officials are confident that the funds appropriated for counternarcotics procurement will be obligated before the 3-year time limitation expires.

Research, Development, Test and Evaluation

RDT&E funds are available for obligation for 2 fiscal years following appropriation. The obligation rates for counternarcotics funds appropriated in fiscal year 1990 for this account are low for the same reasons cited for the procurement appropriation.

DOD officials are confident that the funds appropriated for counternarcotics in this account will be obligated before the 2-year time limitation expires.

SCOPE AND METHODOLOGY

In performing our work, we interviewed DOD officials of the Office of the Coordinator for Drug Enforcement Policy and reviewed financial data, reports, and other documents related to DOD counternarcotics financial management. We compared obligation data for DOD counternarcotics programs and other appropriations using the most current DOD data available (July 31, 1990).

We conducted our review between September 4 and September 11, 1990. Due to the brief time available to complete this assignment, we did not independently verify DOD's financial data or the accuracy of the explanations for delays in obligating counternarcotics funds provided by program and budget officials.

We did not obtain written agency comments. However, we discussed a draft of this fact sheet with DOD officials and incorporated their comments, as appropriate.

OBLIGATION DATA FOR DOD COUNTERNARCOTICS PROGRAM AND DOD-WIDE ACCOUNTS FOR FISCAL YEAR 1990

[In thousands of dollars]

Accounts	DOD Counternarcotics Program			DOD-Wide totals			Difference
	Appropriations			Appropriations			
	Available [1]	Obligated	Percent	Available [2]	Obligated	Percent	(Perecent)
National Guard	$56,369	$38,937	69.08	$4,372,127	$3,597,088	82.27	(13.19)
Operations and maintenance	96,385	56,217	58.33	101,183,059	83,768,259	82.78	(24.46)
Procurement	243,108	20,423	8.40	83,253,424	48,456,349	58.20	(49.80)
RDT&E	10,400	779	7.49	40,921,160	33,081,483	80.84	(73.35)
Construction	3,700	3,680	99.46	6,555,282	1,865,069	28.45	71.01

[1] According to DOD officials, appropriations available total 4409,962,000. Congress appropriated $450 million for DOD counternarcotics activities in fiscal year 1990. Of that amount $3,263,000 was sequestered, $2,500,000 is being withheld by the Department of the Treasury for a classified program, and $34,275,000 was pending reprogramming approvals.

[2] Total available budgetary resources, which include appropriations, reimbursements, other income, and unobligated balances carried forward from prior years.

Note.—Obligation data is as of July 31, 1990.

MAJOR CONTRIBUTIONS TO THIS REPORT

National Security and International Affairs Division, Washington, D.C.

Gary K. Weeter, Assistant Director.
Anton G. Blieberger, Evaluator-in-Charge.
Rahul Gupta, Evaluator.●

Mr. CRANSTON. Mr. President, all of the following unanimous-consent items have been cleared on the Republican side.

REMOVAL OF INJUNCTION OF SECRECY

Mr. CRANSTON. Mr. President, as in executive session,

I ask unanimous consent that the injunction of secrecy be removed from the agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, Treaty Document No. 101-22, transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Agreement Between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, with Annex, signed at Washington, June 1, 1990. I also enclose for the information of the Senate the report of the Department of State with respect to this agreement and an illustrative chart of the maritime boundary.

In the agreement, the Parties agree that the line described in Article 1 of the Convention Ceding Alaska, signed March 30, 1867 (the 1867 Convention Line), is, as defined in the agreement, the maritime boundary between the United States and the Soviet Union. As such, it defines the limits within which each Party may exercise territorial sea jurisdiction or exclusive economic zone jurisdiction in those areas where their claimed 12 nautical mile territorial seas or 200 nautical mile exclusive economic zones would otherwise overlap or were otherwise in dispute. It also delimits, as between the Parties, such continental shelf juris-

diction beyond 200 nautical miles from their coasts as they may exercise in accordance with international law in the Arctic Ocean, Bering and Chukchi Seas, and a portion of the North Pacific Ocean.

I believe the agreement to be fully in the United States interest. It reflects the view of the United States that the maritime boundary should follow the 1867 Convention Line. The agreement resolves differences over where each Party has the right to manage fisheries and oil and gas exploration and development, as well as exercise other sovereign rights and jurisdiction, in these marine areas. Through its transfer of jurisdiction provisions, it also ensures that coastal state jurisdiction, in accordance with international law, is exercised by one or the other Party in all marine areas within 200 nautical miles of either or both coasts. Therefore, the agreement will permit more effective regulation of marine resource activities and other ocean uses and removes a significant potential source of dispute between the United States and the Soviet Union.

I recommend that the Senate give early and favorable consideration to this agreement and advise and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *September 26, 1990.*

MEASURE RETURNED TO CALENDAR—S. 110

Mr. CRANSTON. Mr. President, I ask unanimous consent that S. 110 be returned to the calendar.

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

STEWART B. McKINNEY HOMELESS, HEALTH CARE, EDUCATION, TRAINING, AND COMMUNITY SERVICES AMENDMENTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 792, S. 2863, a bill to reauthorize certain programs under the McKinney Homeless Assistance Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2863) to amend the Stewart B. McKinney Homeless Assistance Act and the Public Health Service Act to reauthorize certain health, education, training, and community services programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stewart B. McKinney Homeless Health Care, Education, Training, and Community Services Amendments of 1990".

SEC. 2. DEFINITION OF HOMELESS.

Section 103(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)) is amended to read as follows:

"(b) INCOME ELIGIBILITY.—

"(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act.".

SEC. 3. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE PUBLIC HEALTH SERVICE ACT.

(a) PRIMARY HEALTH SERVICES FOR THE HOMELESS.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) in subsection (e)(1)(B)—

(A) by striking out "(i)"; and

(B) by striking out clause (ii);

(2) in subsection (g), by inserting before the period the following: ", including violence counseling services where appropriate"; and

(3) in subsection (q)(1), by striking out "and $66,200,000 for fiscal year 1991" and inserting in lieu thereof "$69,000,000 for fiscal year 1991, $90,000,000 for fiscal year 1992, and $95,000,000 for fiscal year 1993".

(b) ALCOHOL AND DRUG ABUSE DEMONSTRATION PROJECTS.—Section 513(b) of such Act (42 U.S.C. 290bb-2(b)) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

(c) COMMUNITY MENTAL HEALTH SERVICES DEMONSTRATION PROJECTS.—Section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $11,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

SEC. 4. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

(a) JOB TRAINING FOR THE HOMELESS.—

(1) APPLICATIONS.—Section 733 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11443) is amended—

(A) by inserting "(a) IN GENERAL.—" before "Each applicant";

(B) in subsection (a)(2), by inserting before the semicolon the following: "or other related programs providing services necessary to address the multiple needs of homeless individuals";

(C) in subsection (a)(3), by inserting "on the street or" before "in-shelter"; and

(D) by adding at the end thereof the following new subsection:

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census; or

"(C) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.

"(2) HOLISTIC SERVICE APPROACH.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement programs that include formal reciprocal referral agreements with other programs such as substance abuse counseling, local shelters, and subsidized housing that provide a holistic service approach on an individual case management basis.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a)(1) of such Act (42 U.S.C. 11449(a)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, of which $3,000,000 shall be used to carry out section 738, $16,500,000 for fiscal year 1992, of which $3,500,000 shall be used to carry out section 738, and $18,000,000 for fiscal year 1993, of which $4,500,000 shall be used to carry out section 738".

(3) TERMINATION.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

(b) AMENDMENTS TO THE EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.—

(1) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of such Act (42 U.S.C. 11463(b)) is amended—

(A) in paragraph (1)—

(i) by striking out "all" in subparagraph (A), and inserting in lieu thereof "not less than 95 percent"; and

(ii) by striking out "90 percent" in subparagraph (B), and inserting in lieu thereof "85 percent"; and

(B) in paragraph (3), by striking out "no amount" and inserting in lieu thereof "not more than 5 percent of the amounts".

(2) ELIGIBLE USE OF FUNDS.—Section 753(c) of such Act (42 U.S.C. 11463(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) Renovation or purchase of buildings to be used to provide such services."; and

(B) by adding at the end thereof the following new paragraph:

"(5) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals.".

(3) COMMUNITY SERVICES GRANT PROGRAM.—Section 754 of such Act (42 U.S.C. 11464) is amended by inserting after "and 1990" the following: ", and $50,000,000 for each of the fiscal years 1991 through 1993".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 5. AMENDMENTS TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT RELATING TO EDUCATION.

(a) STATEWIDE LITERACY INITIATIVES.—

(1) REAUTHORIZATION.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991,

and such sums as may be necessary in each of the fiscal years 1992 and 1993,".

(2) GENERAL AUTHORITY.—Section 702 of such Act (42 U.S.C. 11421) is amended—

(A) in the section heading by striking out "STATE"; and

(B) in subsection (a)—

(i) by striking out "State educational agencies to enable each such agency to" and inserting in lieu thereof "entities described in paragraph (2) to";

(ii) by redesignating paragraphs (1) and (2) subparagraphs (A) and (B), respectively;

(iii) by inserting "(1)" before "The Secretary"; and

(iv) by adding at the end thereof the following new paragraphs:

"(2) To be eligible to receive a grant under this section, an entity shall be—

"(A)(i) a State education agency or consortia thereof; or

"(ii) a local educational agency or consortia thereof; or

"(B) a partnership between an entity described in subparagraph (A) and—

"(i) a private nonprofit organization;

"(ii) a private business;

"(iii) any other public agency; or

"(iv) any other appropriate entity;

if the entity of the type described in clauses (i) through (iv) has demonstrated effectiveness in carrying out literacy programs.

Priority shall be given to applications submitted by entities under subparagraph (B).

"(3) In awarding grants under this section, the Secretary of Education shall give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census;

"(C) the proportionally higher numbers or concentrations of homeless individuals or adults who do not have a secondary education or its equivalent; or

"(D) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.".

(3) APPLICATION.—Section 702(b) of such Act (42 U.S.C. 11421(b)) is amended—

(A) by striking out "State educational agency desiring to receive its allocation" and inserting in lieu thereof "eligible entity as defined in section 702(a)(2)"; and

(B) by striking out "and the number" and all that follows through "States to be served".

(b) POLICY.—Section 721(2) of such Act (42 U.S.C. 11431(2)) is amended—

(1) by inserting "or other laws, regulations, policies, or practices that may act as barriers to the enrollment of homeless children and youth in its schools" after "attendance laws,"; and

(2) by inserting "regulations, policies, and practices" after "such laws".

(c) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in the section heading by inserting "AND LOCAL" after "STATE";

(2) in subsection (b), by striking out "section 1005" and inserting in lieu thereof "part A of chapter 1 of title I";

(3) in subsection (c)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(4) to develop and implement training programs for teachers and administrators; and

"(5) to provide grants to local educational agencies in accordance with section 723.";

(4) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) biennially gather information concerning the nature and extent of barriers to access to, and placement of, homeless children and youth in elementary and secondary schools, including information on the manner in which such barriers have been addressed, what barriers continue to exist, and the difficulties in identifying the special needs of such children;";

(B) by striking out "and" at the end of paragraph (2);

(C) by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) prepare and submit to the Secretary a report concerning the information gathered pursuant to paragraph (1) not later than December 31 of each year in which such information is gathered; and

"(4) facilitate coordination between the State Education Agency, the State Social Services Agency, and other agencies providing services to homeless children and youth and their families."; and

(D) by striking out the last sentence;

(5) in subsection (e)(1)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(C) educate school personnel (including principals, attendance officers, teachers, and enrollment personnel), parents, shelter operators, and service providers concerning the rights and needs of homeless children and homeless youth in school; and

"(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local school food programs and appropriate child nutrition programs.";

(6) in subsection (e)—

(A) by striking out "(6)" in paragraph (2) and inserting in lieu thereof "(10)";

(B) by striking out "homeless child or youth" in paragraph (3) and inserting in lieu thereof "child or youth who becomes homeless during the school year or during the summer prior thereto";

(C) by striking out "district" each place that such occurs in subparagraphs (A) and (B) of paragraph (3);

(D) by inserting at the end of paragraph (3) the following new sentences:

"In determining the best interests of the child or youth, for purposes of making a school assignment, consideration shall be given to a request made by a parent regarding school selection. For purposes of this paragraph, the term 'school of origin' shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.";

(E) by redesignating paragraph (6) as paragraph (7);

(F) by inserting after paragraph (5), the following new paragraph:

"(6) The local educational agency of each homeless child or youth shall provide transportation to enable such homeless child or youth to attend the school selected under paragraph (3), to no lesser extent than other children and youth are provided transportation under State or local law or policy.";

(G) by striking out "The school records" in paragraph (7) (as so redesignated by subparagraph (E)) and inserting in lieu thereof "Any records normally kept by the school, which may include, but are not limited to, immunization records, birth certificates, guardianship records, academic records, evaluations for special services or programs,"; and

(H) by adding at the end thereof the following new paragraphs:

"(8) Each local educational agency serving homeless children or youth shall coordinate with local social services agencies, and other agencies or programs providing services to such children or youth and their families.

"(9) Each local educational agency shall designate a homelessness liaison to ensure that—

"(A) homeless children and youth enroll and succeed in the schools of that agency; and

"(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

"(10) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with section 722(e)(3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school."; and

(7) in subsection (g)—

(A) by striking out "$5,000,000" in paragraph (1) and all that follows through the end thereof and inserting in lieu thereof "$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1), (2), (3), and (4) of subsection (c).

"(3)(A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(4).

"(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State

educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal year bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.".

(d) GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Section 723 of such Act (42 U.S.C. 11433) is amended to read as follows:

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—The State educational agency may make grants to local educational agencies to carry out the activities described in subsection (c).

"(b) AWARDS.—

"(1) BASIS.—Except as provided in section 722(g)(3), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies.

"(2) DETERMINATION.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth in its jurisdiction; and

"(D) other criteria as the agency determines appropriate.

"(c) USE.—

"(1) IN GENERAL.—Grants awarded under this section shall be used to provide services intended to facilitate the enrollment, attendance, and success of homeless children and youth in school. Services provided under this section are not intended to replace the regular academic program.

"(2) PROVISION OF SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds, or at other nonsectarian facilities. Such services shall be provided, to the maximum extent practicable, through existing programs and mechanisms that integrate homeless individuals with housed individuals.

"(3) TYPES OF SERVICES.—Services provided under this section may include—

"(A) expedited evaluations for special needs, programs, and services, including the areas of special education, limited English proficiency, remediation, and gifted and talented students;

"(B) before- and after-school and summer programs for tutoring, homework assistance, and the supervision of educational activities during nonschool hours, by a teacher or other qualified individual, in coordination with existing programs for children who are not homeless, where appropriate;

"(C) the adaptation of space and the purchase of supplies for nonschool facilities made available under paragraph (2) to provide services under subparagraph (B);

"(D) developmentally appropriate early childhood programs for pre-school age children;

"(E) counseling, social work and psychological services, including violence counseling, and referrals for such services;

"(F) referral to medical, dental, and other health services, and the provision of funds for such services where appropriate and practical, in coordination with services provided under title VI;

"(G) school supplies to be distributed at the shelter or temporary housing facilities;

"(H) parent education and training concerning the rights of, and resources available to, homeless children and youth;

"(I) the training of educators and other school personnel to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(J) the excess cost of transportation for students not provided under section 722(e)(6) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

"(K) where necessary, fees and other costs associated with tracking, obtaining and transferring records necessary to enroll students in school, including records of immunizations, birth certificates, academic records, guardianship records, and evaluations for special services or programs;

"(L) coordination between schools and agencies providing services to homeless children; and

"(M) such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

"(d) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as such agency may reasonably require. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

"(2) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (10) of section 722(e);

"(3) assurances that such funds will supplement and not supplant non-Federal funds currently used for such purposes; and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.".

(e) NATIONAL RESPONSIBILITIES.—Section 724 of such Act (42 U.S.C. 11434) is amended—

(1) in subsection (a), to read as follows:

"(a) GENERAL ACCOUNTING OFFICE.—Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective method of distributing funds provided under this subtitle to State educational agencies and local educational agencies."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(B) by inserting after the subsection heading the following new paragraph:

"(1)(A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall, through the awarding of a grant, or through entering into a contract or cooperative agreement, conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purposes of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

"(B) The study conducted under subparagraph (A) shall consider—

"(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

"(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth; and

"(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, part-time, or not at all, and reasons for the non-attendence of such children and youth.

"(C)(i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing the results of the study conducted under subparagraph (A) and the estimated costs of making the estimates required under clause (ii).

"(ii) Not later than 1 year after the completion of the study under clause (i), the Secretary, in consultation with the appropriate Committees of Congress, and through the use of appropriate statistical methodology, shall determine accurate estimates of the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

"(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

"(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C). Amounts necessary to complete such report and esti-

mates shall be included in the President's 1992 Budget Request to Congress.";

(C) in paragraph (2) (as so redesignated) by adding at the end thereof the following new sentences: "In reviewing the State plans submitted by the States educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.";

(D) by inserting after paragraph (2) (as so redesignated), the following new paragraph:

"(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle."; and

(E) by adding at the end thereof the following new paragraph:

"(6) The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.".

SEC. 6. EVALUATION AND REPORT.

Subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 755. EVALUATION.

"(a) PURPOSE.—It is the purpose of this section to develop as rapidly as practicable, information concerning the organization, impact and effectiveness of services provided to homeless individuals under programs administered by the Secretary of Health and Human Services under this or any other Act, and of the effectiveness of the coordination of such programs with other Federal or Federally assisted programs that provide services to homeless individuals, or to those at risk of becoming homeless.

"(b) REQUIREMENT FOR EVALUATION ACTIVITIES.—In carrying out the purpose described in subsection (a), the Secretary shall conduct evaluations that shall include—

"(1) the use of cost and utilization data collected under the Primary Health Care for the Homeless Program under section 340 of the Public Health Service Act to conduct an evaluation, in consultation with organizations receiving grants under this title and with the national representatives of such organizations, of the impact of health, case management and referral services provided by a representative sample of grantees concerning client outcome;

"(2) under part C of title V, an evaluation of the need for and availability of services for individuals who are homeless or at risk of becoming homeless that have a serious mental illness or substance abuse problem, with special attention paid to the service needs of the dually diagnosed;

"(3) an evaluation to identify and document replicable, community-wide programs that provide integrated, comprehensive services that result in service delivery models which prevent homelessness or lead to the successful relocation of the homeless into permanent housing; and

"(4) an identification through the evaluation conducted under this subsection of those areas where services are lacking.

"SEC. 756. REPORT BY THE SECRETARY.

"Not later than 12 months after the date of the enactment of this section, the Secretary of Health and Human Services shall—

"(1) complete, in consultation with appropriate members of the Interagency Council on the Homeless, a study of the extent to which Federal laws, regulations, or policies are inappropriately or inadvertently hindering Federal facilities (such as cafeterias in the facilities of the Department of Defense and Department of Veterans' Affairs) from making available to programs or entities serving the homeless prepared food that is not consumed; and

"(2) prepare and submit, to the appropriate Committees of Congress, a report containing the findings made as a result of the study conducted under paragraph (1), including any recommendations with respect to administrative and legislative initiatives that would permit Federal facilities to make available to entities serving the homeless such excess prepared food.".

SEC. 7. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

(a) FINDINGS.—Congress finds that—

(1) homelessness is a growing national tragedy;

(2) as many as one-third of the homeless people in the United States are members of families with children;

(3) families represent the fastest growing segment of the homeless population;

(4) homelessness too often results in the placements of children into out-of-home care, or delays the reunification of such children with their parents; and

(5) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families.

(b) AMENDMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) (as amended by Public Law 101-126) is amended by adding at the end thereof the following new title:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

"(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

"(2) the abuse and neglect of such children.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

"(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

"(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

"(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

"(A) threatening the well-being of children; and

"(B)(i) contributing to the placement of children in out-of-home care;

"(ii) preventing the reunification of children with their families; or

"(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(d) DURATION OF ASSISTANCE.—The period during which payments are made to an agency from a grant under subsection (a) shall not exceed 3 fiscal years. The Secretary shall not make payments for the second or third fiscal year of the grant unless the Secretary determines that, for the preceding fiscal year, the agency has complied with each of the agreements on which the grant is conditioned.

"SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.

"(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

"(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

"(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

"(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

"(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

"(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

"(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

"(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

"(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

"(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

"(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

"(B) in obtaining appropriate resources for families who need social services, including respite care, and support;

"(3) the provision of emergency housing-related assistance necessary to prevent the placement of children in out-of-home care, to facilitate the reunification of children with their families, and to enable the discharge of youths not less than 16 years of age from such care, including assistance in meeting the costs of—

"(A) rent or utility arrears to prevent an eviction or termination of utility services;

"(B) security and utility deposits, first month's rent, and basic furnishings; and

"(C) other housing-related assistance;

"(4) the provision to families, and to youths not less than 16 years of age who are preparing to be discharged from such care, of temporary rent subsidies necessary to prevent the initial or prolonged placement of children in out-of-home care, which subsidies are provided in an amount not exceeding 70 percent of the local fair market rental value and are provided for a period not to exceed 180 days;

"(5) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

"(6) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

"SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

"(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

"(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

"(A) the incidence of placements of children in out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

"(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

"(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

"(3) facilitating the reunification of children with their families; and

"(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(c) REPORT TO CONGRESS.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of the programs established under this title in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

"(1) information describing the localities in which activities are conducted;

"(2) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

"(3) information concerning the nature of the joint training conducted with grant funds; and

"(4) information concerning the impact of programs supported with grant funds on—

"(A) the incidence of the placement of children into out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

"SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary shall not make a grant under section 301(a) unless—

"(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

"(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

"(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

"SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1993.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The Child Abuse and Prevention Act (42 U.S.C. 5101 et seq.) is amended in the table of contents in section 101(b) by adding at the end thereof the following new items:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.

"Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.

"Sec. 303. Additional required agreements.

"Sec. 304. Description of intended uses of grant.

"Sec. 305. Requirement of submission of application.

"Sec. 306. Authorization of appropriations.".

AMENDMENT NO. 2912

(Purpose: To combat homelessness through the establishment of housing-based family support centers, through the provision of housing-based services to elderly individuals and individuals with chronic and debilitating illnesses and conditions, through the provision of residence-based outpatient mental health services, and through the use of grants for the improvement of community development corporations)

Mr. CRANSTON. Mr. President, I send an amendment to the desk in behalf of Senator KENNEDY, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for Mr. KENNEDY, proposes an amendment numbered 2912.

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

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

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

Mr. KENNEDY. Mr. President, today we are considering S. 2863, the reauthorization of the McKinney Homeless Assistance Act.

Four years ago, Congress addressed the worsening tragedy of the homeless and enacted the McKinney Homeless Assistance Act to provide emergency food, shelter, health, and mental health care, job training and education for homeless children and adults.

The amendments proposed today will extend the McKinney Act and make it more effective in addressing the needs of the homeless.

The bill will extend all of the McKinney Act programs for 3 years, through 1993. In 1991, the bill will authorize $253 million for emergency services to homeless. Of this total amount, $69 million will be available to expand and improve the Health Care for the Homeless Program. The health needs of the homeless are substantial, and these programs are making a difference across the country—often between life and death.

The bill also reauthorizes job training, community service, and education programs. In addition, this measure expands the education provisions of McKinney to remove barriers that deny homeless children access to education. The Education Department reports that at least 28 percent of homeless school-aged children still do not attend school. This bill authorizes $50 million in assistance to cover the extra cost of expediting the evaluation of homeless children and youth for special services, facilitating the transfer of records, and providing transportation to get children into school. It also authorizes before- and after-school programs, tutoring and counseling to ensure that once in school, homeless students are more likely to remain and to learn.

At Senator HATCH's urging, we have also included a comprehensive evaluation component in this package. The various departments involved in administrating the McKinney Act are currently conducting a review of all Federal programs serving the homeless, in order to improve the act. I welcome these efforts, and our evaluation provisions signals the Senate's commitment to working closely with the administration.

Finally, a new $25 million demonstration program authorized by the bill will provide grants to prevent the wrongful separation of children from their families and to prevent abuse and neglect of these children.

McKinney Act programs work. In Massachusetts, McKinney funds provided 400 new shelter beds for individuals, and built 9 new family shelters with 178 beds. The Boston Health Care for the Homeless Project was able to provide over 1,400 homeless people with health care. Six hundred veterans have been placed in housing and jobs. The list of people helped by the McKinney Act goes on and on.

Yet the list of those who need help is much longer. McKinney services are needed now more than ever, and I urge the Senate to approve this essential and compassionate legislation.

In addition, Mr. President, we are including the Homelessness Prevention and Community Revitalization Act, which passed the Senate previously as an amendment to the Affordable Housing Act. This measure will provide $452.5 million to State and local public and private nonprofit agencies for essential social and health services for families and individuals in subsidized housing and low income neighborhoods.

This provision seeks to achieve this goal through five carefully targeted and coordinated grant programs. The first program, Family Support Centers, will provide on-site case managers and services to at-risk families. The program will provide the services that low-income families need before a crisis erupts.

The second program, title II of the amendment, will provide housing-based health services to individuals who are seriously ill—such as people with AIDS— and the frail elderly.

The third title consists of Senator DOMENICI's Projects to Aid the Transition from Homelessness or PATH. This excellent proposal, which was coauthored by Senator DURENBERGER, will provide services to homeless individuals who are seriously mentally ill or are substance abusers.

Title IV renews our commitment to Community Development Corporations by reinvigorating the Federal component of our current public private partnership.

The fifth title contains Senator MIKULSKI's Gateway Program. This establishes on-site literacy, basic skills, and job training programs for young people in public housing.

We have an obligation to help our fellow Americans help themselves. Homelessness is not inevitable in the United States. It is time we stopped acting like it is.

Mr. HATCH. Mr. President, I rise to join Senator KENNEDY in supporting the Stewart B. McKinney Homeless Health Care, Education, Training, and Community Services Amendments of 1990. This legislation we are considering today will extend funding for health, mental health, job training, and education programs for homeless people.

The face of homelessness has changed in the last decade. Images of skid row and middle-aged, male alcoholics have given way to some new realities. Many of the new homeless are younger, and they are ethnically more diverse. Roughly 30 percent of the homeless have some type of major mental illness. And, even more of those who are homeless have problems with substance abuse, including alcohol and drug abuse. Some suffer from multiple, overlapping problems such as alcoholism and substance abuse.

The homeless increasingly includes the working poor. Although they may be working, they may not earn enough to rent as home or an apartment. Others are homeless because of family conflict, dissolution, or illness.

Because the problems of homelessness are varied, the solutions must be varied as well. We must provide our States and communities with the flexibility to design and implement activities that address the specific needs of the homeless in their communities.

For example, there is an increasing number of families among the homeless. The children in these families need to be in school. This bill changes the education program from a discretionary grant program directed by the Department of Education to a State-directed program. It also requires a study by the Government Accounting Office and the Department of Education to determine an appropriate formula for distributing education funds to the homeless.

Mr. President, I also believe that the McKinney programs must continue to encourage and enhance the work of the States, private organizations, and individuals. This bill contains an excellent example of what individual effort can achieve. It requests the Secretary of Health and Human Services to report to the Congress on the policies, regulations, or laws that hinder Federal facilities, such as cafeterias at military bases or VA hospitals, from giving otherwise edible leftover food that is going to be thrown away to food programs for the homeless. It asks the Secretary to report on ways to change this situation.

This idea was contained in a letter I received from Shelley Wood of Salt Lake City, who had worked for several years as a physician's assistant in an indigent care clinic. I think it has merit. I am pleased that this provision is included in the bill before us today.

Mr. President, I think the legislation we reported from the Committee on Labor and Human Resources will assist States and local programs in meeting the special needs of the homeless in their communities. I urge my colleagues to join me in supporting this bill.

Mr. DOMENICI. Mr. President, on June 20, 1990, the Senate passed the Kennedy-Domenici amendment to the National Affordable Housing Act by a vote of 19 to 11. This amendment expands the McKinney Homeless Assistance Act to add more prevention measures and to add PATH grants for the homeless who are mentally and/or substance abusers.

Today, we are asking the Senate to pass this same amendment on another bill, S. 2863, the Labor Committee's re-

authorization amendments to the McKinney Homeless Assistance Act.

Senator KENNEDY and others will discuss the provisions of the prevention activities in our amendment. I would like to focus the Senate's attention on the PATH grants—Projects to Aid the Transition from Homelessness.

The treatment and outreach services for the homeless mentally ill and substance abusers in the PATH grant program are significantly expanded compared to those now in the McKinney block grant program.

The fiscal year 1990 authorization level for the mental health block grants, title VI-B of the McKinney Act is $35 million and "such sums as are necessary" for fiscal year 1991.

PATH grants would authorize $150 million each year for the next 5 years, Mr. President. We hope to see more mental health treatment, better housing coordination, and, for the first time in the McKinney Act, nationwide substance abuse treatment targeted to the homeless. Services included in PATH grants are:

Outreach and engagement services;

Screening and diagnostic treatment services;

Habilitation and rehabilitation;

Community mental health services;

Alcohol or drug treatment services;

Staff training; and

Case management services.

By making significantly more funding available to this target group, we hope to make large impacts on the severe problems faced by a mentally ill person on the streets.

The homeless mentally ill can be the most fragile and victimized people in our country. A few are volatile. We know that most who are mentally ill have schizophrenia in its many forms. Some are depressed. Yet others try to hide their mental illnesses by becoming alcoholic or addicted to drugs.

In Albuquerque, Santa Fe, and Las Cruces, NM, the homeless have become more visible and more numerous. The Albuquerque Emergency Care Alliance reports that 29 percent of the homeless individuals that are treated are mentally ill. A third or more are substance abusers.

PATH grants are intended to make a major difference in the lives of the homeless who are mentally ill and those who are substance abusers. We truly hope to create pathways from homelessness for these most needy Americans.

ADDING SUBSTANCE ABUSE SERVICES

The current McKinney Act does not provide a source of funds for substance abuse treatment except for the community demonstration projects for alcohol and drug abuse treatment of homeless individuals (section 512(c) of the Public Health Service Act). These demonstration projects are being run in nine cities with funds appropriated through fiscal year 1989.

A U.S. News & World Report story on January 15, 1990, reports that substance abuse among the homeless is increasing dramatically. The story cites the U.S. Conference of Mayors 27-city survey released in December 1989.

Local officials reporting to the Conference of Mayors are now saying that 44 percent of the homeless are substance abusers.

According to the article, the mayors are also reporting that "since 1986, the numbers of alcoholics and drug addicts have grown faster than othr segments of the homeless, with their ranks increasing by almost a third in the last year alone."

One of the most difficult assessments to make when dealing with a homeless person who is an alcoholic or a drug addict is the determination of whether or not there is also an underlying mental illness. In many cases both illnesses are present. These are homeless persons with a dual diagnosis.

Recent studies show that among the general population, drug abusers have the highest likelihood of also having a severe mental disorder—about one-half of drug addicts are thus afflicted.

Among alcoholics in the general population, about a third have a comorbid mental disorder.

Explained in another way, these findings say that an alcoholic is 2.7 times more likely than a nonalcoholic to have a severe mental disorder. A drug addict is 4.5 times as likely as a nonabuser to have an underlying mental disorder.

This type of research finding, while not specifically about the homeless, certainly lends credibility to creating a source of Federal funds to address these often related and difficult to treat ailments.

When we add these overlapping estimates together—44 percent substance abusers among the homeless according to the mayors' survey and 40 percent mentally ill from the National Institute of Mental Health—it is clear that a majority of homeless people have either substance abuse problems, mental illness, or both.

PROTECTING THE MENTALLY ILL

Since this new grant program replaces the community mental health services block grant of the Stewart B. McKinney Homeless Assistance Act, there is some valid concern among mental advocates. They do not want to see PATH grants become an adjunct to the antidrug abuse programs with the result that services to the homeless mentally ill are reduced from the current levels. I agree with their concern.

In agreeing to protect the homeless mentally ill in PATH grants, we have created a hold harmless provision that holds each State and its entitled communities to the total amount of funds received under title VI-B of the McKinney Act in fiscal year 1990 plus an additional 30 percent.

This 30-percent increase is an acknowledgment that serving substance abusers adds to the costs of providing eligible services in our bill.

In addition to the hold harmless plus 30 percent, we have required that at least two-thirds of the beneficiaries be seriously mentally or dually diagnosed with mental illness and substance abuse problems.

Unfortunately, the recent history of substance abuse treatment compared to mental health treatment shows a sharp relative decline in services to the mentally ill compared to substance abusers. This is due largely to the surge in funding for drug treatment programs in the two large antidrug abuse acts.

The two-thirds minimum for mentally ill or dually diagnosed persons will keep this grant program from becoming an extension of current substance abuse programs while allowing treatment funds to aid substance abusers who are homeless.

By requiring case managers to seek services for eligible clients, we are hoping to see more coordination with substance abuse treatment programs. In the event such programs cannot be located, this bill provides some of the necessary funds to add substance abuse treatment services for the homeless.

IMPROVING THE CHANCES OF GETTING SERVICES

Unfortunately, it is very often the case that a mental health center will not be able to treat a person with substance abuse problems. Nor will a drug or alcohol treatment program treat a person with signs of mental illness.

Our bill addresses this institutional failure by denying funds from PATH to programs with a stated or implied policy of turning away potential clients with either mental disorders substance abuse afflictions.

In other words, if a substance abuse treatment program denies services to those with mental illness or vice versa, these funds cannot be contracted to that agency or provider.

Our aim here is to assure a homeless person that any entrance point into the treatment system will lead to some positive assistance. We are not requiring each service provider to be a comprehensive alcohol, drug, and mental health provider. Rather, we are requiring that proper referrals be made without regard to the primary capability of the provider. Hopefully, this provision in our bill will lead to better integration of the treatment network for a homeless person who is very likely to have mental disorders or addictions to alcohol or drugs.

HOUSING AND PATH GRANTS

I am very pleased that the Senate Labor Committee agreed to expand

the services for the homeless mentally ill and substance abusers. In addition, some of the original PATH grant housing activities were agreed to in the Labor Committee.

While we could not authorize the major housing activities of PATH, like transitional housing and group homes, we were able to authorize some important housing activities in the Labor Committee.

The Labor Committee was able to authorize some vital housing assistance in PATH grants. Up to 20 percent of any PATH grant can be used for any or all of the following housing activities: Minor renovation, expansion, and repair; planning; security deposits; one time rental payments to prevent eviction; and technical assistance in applying for housing assistance.

A larger share of housing assistance for this target group—the homeless mentally ill and substance abusers—will be made available from the housing titles of the McKinney Act, reenacted in the National Affordable Housing Act, S. 566. As I stated in my colloquy with Senator CRANSTON in the debate on S. 566, the Senate fully intends that the U.S. Department of Health and Human Services and the U.S. Department of Housing and Urban Development make every effort to coordinate the service provisions of the McKinney Act with the housing provisions of the same act, especially for the homeless who are mentally ill.

The National Affordable Housing Act, as passed by the Senate, also makes a significant change in homeless housing policy. It consolidates four McKiney Act homeless housing programs into one grant. This will make it much easier for local homeless service programs receiving PATH grants to locate appropriate housing. Prior to this important change, a local shelter or homeless service program would have to compete on a national basis for transitional and permanent housing.

REQUIRED APPLICATIONS

The intended local uses of PATH grants must be written in an application submitted to the Department of Health and Human Services. This application will define the geographic areas where the greatest numbers of intended beneficiaries are located.

It will describe the programs and activities to be supported, including coordination with other agencies and nonprofit organizations. Public comments will be required.

Intended mental health activities must be consistent with the State comprehensive mental health services plan.

Assurances that improved housing conditions will be available to eligible participants will also be required.

FUND ALLOCATION

To allocate the $150 million, we have applied the current formula for distributing funds for the community development block grant [CDBG] with two important changes.

This formula was chosen because it is well known and well accepted across this country. This formula uses the factors of population, poverty, and housing conditions to distribute funds.

The first change we make in this formula is to require that the metropolitan cities and urban counties will receive one-half of appropriated funds. States will receive the other half. States can, of course, allocate their funds to smaller cities and towns around the State or to community based organizations as well.

Assuming a full appropriation of $150 million when the first 50-50 split is made, $75 million would go to State governments to distribute and $75 milion would go to the larger cities in American, designated as metropolitan cities and urban counties. The CDBG formula factors of population, poverty, and housing conditions are then applied to allocate these funds among States and large cities.

The current title VI-B, Community Mental Health Services, of the McKinney Act, allocates all block grants to States only based on population. Governors then solicit applications and distribute the money within their States to large and small cities.

The second change we make in the CDBG formula allocation is the requirement that no State, including its entitlement communities, will receive less than $500,000.

LOCAL MATCH REQUIREMENTS

Each eligible entity must contribute a local share of 25 percent to match the 75 percent Federal share.

The local match may be cash or in kind including plant, equipment, or services. We have also specifically allowed community development block grant funds to be used as local match to obtain PATH grants.

CONCLUSION

Our proposed PATH grants, Mr. President, will significantly expand the Stewart B. McKinney Homeless Assistance Act to add significant new housing authority and service funds for the homeless who are mentally ill and/or substance abusers.

We are replacing a fiscal year 1990 authorization level of $35 million with a new authorization of $150 million per year.

The significant increase in reported substance abuse and the seriousness of mental disorders among the homeless warrants such an increase. We are confident that the cities, towns, and States of America will welcome this very important assistance to create more innovative pathways out of homelessness for the homeless who are severely mentally ill or who have addictions to alcohol and/or drugs.

This bill is supported by the U.S. Conference of Mayors, the National Governors' Association, the National Alliance for the Mentally Ill, the National Mental Health Association, the American Psychiatric Association, the American Psychological Association, and the mental health law project.

I urge my colleagues to support the inclusion homeless prevention activities and PATH grants in this McKinney Act reauthorization bill.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 2912) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, 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. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. SHORT TITLE.

This title may be cited as the "Stewart B. McKinney Homeless Health Care, Education, Training, and Community Services Amendments of 1990".

SEC. 102. DEFINITION OF HOMELESS.

Section 103(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)) is amended to read as follows:

"(b) INCOME ELIGIBILITY.—

"(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act.".

SEC. 103. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE PUBLIC HEALTH SERVICE ACT.

(a) PRIMARY HEALTH SERVICES FOR THE HOMELESS.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) in subsection (e)(1)(B)—

(A) by striking out "(i)"; and

(B) by striking out clause (ii);

(2) in subsection (g), by inserting before the period the following: ", including violence counseling services where appropriate"; and

(3) in subsection (q)(1), by striking out "and $66,200,000 for fiscal year 1991" and inserting in lieu thereof "$69,000,000 for fiscal year 1991, $90,000,000 for fiscal year 1992, and $95,000,000 for fiscal year 1993".

(b) ALCOHOL AND DRUG ABUSE DEMONSTRATION PROJECTS.—Section 513(b) of such Act

(42 U.S.C. 290bb-2(b)) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

(c) COMMUNITY MENTAL HEALTH SERVICES DEMONSTRATION PROJECTS.—Section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $11,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

SEC. 104. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

(a) JOB TRAINING FOR THE HOMELESS.—

(1) APPLICATIONS.—Section 733 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11443) is amended—

(A) by inserting "(a) IN GENERAL.—" before "Each applicant";

(B) in subsection (a)(2), by inserting before the semicolon the following: "or other related programs providing services necessary to address the multiple needs of homeless individuals";

(C) in subsection (a)(3), by inserting "on the street or" before "in-shelter"; and

(D) by adding at the end thereof the following new subsection:

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census; or

"(C) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.

"(2) HOLISTIC SERVICE APPROACH.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement programs that include formal reciprocal referral agreements with other programs such as substance abuse counseling, local shelters, and subsidized housing that provide a holistic service approach on an individual case management basis.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a)(1) of such Act (42 U.S.C. 11449(a)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, of which $3,000,000 shall be used to carry out section 738, $16,500,000 for fiscal year 1992, of which $3,500,000 shall be used to carry out section 738, and $18,000,000 for fiscal year 1993, of which $4,500,000 shall be used to carry out section 738".

(3) TERMINATION.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

(b) AMENDMENTS TO THE EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.—

(1) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of such Act (42 U.S.C. 11463(b)) is amended—

(A) in paragraph (1)—

(i) by striking out "all" in subparagraph (A), and inserting in lieu thereof "not less than 95 percent"; and

(ii) by striking out "90 percent" in subparagraph (B), and inserting in lieu thereof "85 percent"; and

(B) in paragraph (3), by striking out "no amount" and inserting in lieu thereof "not more than 5 percent of the amounts".

(2) ELIGIBLE USE OF FUNDS.—Section 753(c) of such Act (42 U.S.C. 11463(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) Renovation or purchase of buildings to be used to provide such services."; and

(B) by adding at the end thereof the following new paragraph:

"(5) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals.".

(3) COMMUNITY SERVICES GRANT PROGRAM.—Section 754 of such Act (42 U.S.C. 11464) is amended by inserting after "and 1990" the following: ", and $50,000,000 for each of the fiscal years 1991 through 1993".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 105. AMENDMENTS TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT RELATING TO EDUCATION.

(a) STATEWIDE LITERACY INITIATIVES.—

(1) REAUTHORIZATION.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 and 1993,".

(2) GENERAL AUTHORITY.—Section 702 of such Act (42 U.S.C. 11421) is amended—

(A) in the section heading by striking out "STATE"; and

(B) in subsection (a)—

(i) by striking out "State educational agencies to enable each such agency to" and inserting in lieu thereof "entities described in paragraph (2) to";

(ii) by redesignating paragraphs (1) and (2) subparagraphs (A) and (B), respectively;

(iii) by inserting "(1)" before "The Secretary"; and

(iv) by adding at the end thereof the following new paragraphs:

"(2) To be eligible to receive a grant under this section, an entity shall be—

"(A)(i) a State education agency or consortia thereof; or

"(ii) a local educational agency or consortia thereof; or

"(B) a partnership between an entity described in subparagraph (A) and—

"(i) a private nonprofit organization;

"(ii) a private business;

"(iii) any other public agency; or

"(iv) any other appropriate entity;

if the entity of the type described in clauses (i) through (iv) has demonstrated effectiveness in carrying out literacy programs.

Priority shall be given to applications submitted by entities under subparagraph (B).

"(3) In awarding grants under this section, the Secretary of Education shall give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census;

"(C) the proportionally higher numbers or concentrations of homeless individuals or adults who do not have a secondary education or its equivalent; or

"(D) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.".

(3) APPLICATION.—Section 702(b) of such Act (42 U.S.C. 11421(b)) is amended—

(A) by striking out "State educational agency desiring to receive its allocation" and inserting in lieu thereof "eligible entity as defined in section 702(a)(2)"; and

(B) by striking out "and the number" and all that follows through "States to be served".

(b) POLICY.—Section 721(2) of such Act (42 U.S.C. 11431(2)) is amended—

(1) by inserting "or other laws, regulations, policies, or practices that may act as barriers to the enrollment of homeless children and youth in its schools" after "attendance laws,"; and

(2) by inserting "regulations, policies, and practices" after "such laws".

(c) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in the section heading by inserting "AND LOCAL" after "STATE";

(2) in subsection (b), by striking out "section 1005" and inserting in lieu thereof "part A of chapter 1 of title I";

(3) in subsection (c)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(4) to develop and implement training programs for teachers and administrators; and

"(5) to provide grants to local educational agencies in accordance with section 723.";

(4) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) biennially gather information concerning the nature and extent of barriers to access to, and placement of, homeless children and youth in elementary and secondary schools, including information on the manner in which such barriers have been addressed, what barriers continue to exist, and the difficulties in identifying the special needs of such children;";

(B) by striking out "and" at the end of paragraph (2);

(C) by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) prepare and submit to the Secretary a report concerning the information gathered pursuant to paragraph (1) not later than December 31 of each year in which such information is gathered; and

"(4) facilitate coordination between the State Education Agency, the State Social Services Agency, and other agencies providing services to homeless children and youth and their families."; and

(D) by striking out the last sentence;

(5) in subsection (e)(1)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(C) educate school personnel (including principals, attendance officers, teachers, and enrollment personnel), parents, shelter operators, and service providers concerning the rights and needs of homeless children and homeless youth in school; and

"(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local school food programs and appropriate child nutrition programs.";

(6) in subsection (e)—

(A) by striking out "(6)" in paragraph (2) and inserting in lieu thereof "(10)";

(B) by striking out "homeless child or youth" in paragraph (3) and inserting in lieu thereof "child or youth who becomes homeless during the school year or during the summer prior thereto";

(C) by striking out "district" each place that such occurs in subparagraphs (A) and (B) of paragraph (3);

(D) by inserting at the end of paragraph (3) the following new sentences:

"In determining the best interests of the child or youth, for purposes of making a school assignment, consideration shall be given to a request made by a parent regarding school selection. For purposes of this paragraph, the term 'school of origin' shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.";

(E) by redesignating paragraph (6) as paragraph (7);

(F) by inserting after paragraph (5), the following new paragraph:

"(6) The local educational agency of each homeless child or youth shall provide transportation to enable such homeless child or youth to attend the school selected under paragraph (3), to no lesser extent than other children and youth are provided transportation under State or local law or policy.";

(G) by striking out "The school records" in paragraph (7) (as so redesignated by subparagraph (E)) and inserting in lieu thereof "Any records normally kept by the school, which may include, but are not limited to, immunization records, birth certificates, guardianship records, academic records, evaluations for special services or programs,"; and

(H) by adding at the end thereof the following new paragraphs:

"(8) Each local educational agency serving homeless children or youth shall coordinate with local social services agencies, and other agencies or programs providing services to such children or youth and their families.

"(9) Each local educational agency shall designate a homelessness liaison to ensure that—

"(A) homeless children and youth enroll and succeed in the schools of that agency; and

"(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

"(10) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with section 722(e)(3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school."; and

(7) in subsection (g)—

(A) by striking out "$5,000,000" in paragraph (1) and all that follows through the end thereof and inserting in lieu thereof "$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1), (2), (3), and (4) of subsection (c).

"(3)(A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(4).

"(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal year bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.".

(d) GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Section 723 of such Act (42 U.S.C. 11433) is amended to read as follows:

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—The State educational agency may make grants to local educational agencies to carry out the activities described in subsection (c).

"(b) AWARDS.—

"(1) BASIS.—Except as provided in section 722(g)(3), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies.

"(2) DETERMINATION.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth in its jurisdiction; and

"(D) other criteria as the agency determines appropriate.

"(c) USE.—

"(1) IN GENERAL.—Grants awarded under this section shall be used to provide services intended to facilitate the enrollment, attendance, and success of homeless children and youth in school. Services provided under this section are not intended to replace the regular academic program.

"(2) PROVISION OF SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds, or at other nonsectarian facilities. Such services shall be provided, to the maximum extent practicable, through existing programs and mechanisms that integrate homeless individuals with housed individuals.

"(3) TYPES OF SERVICES.—Services provided under this section may include—

"(A) expedited evaluations for special needs, programs, and services, including the areas of special education, limited English proficiency, remediation, and gifted and talented students;

"(B) before- and after-school and summer programs for tutoring, homework assistance, and the supervision of educational activities during nonschool hours, by a teacher or other qualified individual, in coordination with existing programs for children who are not homeless, where appropriate;

"(C) the adaptation of space and the purchase of supplies for nonschool facilities made available under paragraph (2) to provide services under subparagraph (B);

"(D) developmentally appropriate early childhood programs for pre-school age children;

"(E) counseling, social work and psychological services, including violence counseling, and referrals for such services;

"(F) referral to medical, dental, and other health services, and the provision of funds for such services where appropriate and practical, in coordination with services provided under title VI;

"(G) school supplies to be distributed at the shelter or temporary housing facilities;

"(H) parent education and training concerning the rights of, and resources available to, homeless children and youth;

"(I) the training of educators and other school personnel to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(J) the excess cost of transportation for students not provided under section 722(e)(6) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

"(K) where necessary, fees and other costs associated with tracking, obtaining and transferring records necessary to enroll students in school, including records of immunizations, birth certificates, academic

records, guardianship records, and evaluations for special services or programs;

"(L) coordination between schools and agencies providing services to homeless children; and

"(M) such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

"(d) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as such agency may reasonably require. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

"(2) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (10) of section 722(e);

"(3) assurances that such funds will supplement and not supplant non-Federal funds currently used for such purposes; and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.".

(e) NATIONAL RESPONSIBILITIES.—Section 724 of such Act (42 U.S.C. 11434) is amended—

(1) in subsection (a), to read as follows:

"(a) GENERAL ACCOUNTING OFFICE.—Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective method of distributing funds provided under this subtitle to State educational agencies and local educational agencies."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(B) by inserting after the subsection heading the following new paragraph:

"(1)(A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall, through the awarding of a grant, or through entering into a contract or cooperative agreement, conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purposes of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

"(B) The study conducted under subparagraph (A) shall consider—

"(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

"(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth; and

"(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, part-time, or not at all, and reasons for the non-attendence of such children and youth.

"(C)(i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing the results of the study conducted under subparagraph (A) and the estimated costs of making the estimates required under clause (ii).

"(ii) Not later than 1 year after the completion of the study under clause (i), the Secretary, in consultation with the appropriate Committees of Congress, and through the use of appropriate statistical methodology, shall determine accurate estimates of the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

"(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

"(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C). Amounts necessary to complete such report and estimates shall be included in the President's 1992 Budget Request to Congress.";

(C) in paragraph (2) (as so redesignated) by adding at the end thereof the following new sentences: "In reviewing the State plans submitted by the States educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.";

(D) by inserting after paragraph (2) (as so redesignated), the following new paragraph:

"(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle."; and

(E) by adding at the end thereof the following new paragraph:

"(6) The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.".

SEC. 106. EVALUATION AND REPORT.

Subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 755. EVALUATION.

"(a) PURPOSE.—It is the purpose of this section to develop as rapidly as practicable, information concerning the organization, impact and effectiveness of services provided to homeless individuals under programs administered by the Secretary of Health and Human Services under this or any other Act, and of the effectiveness of the coordination of such programs with other Federal or Federally assisted programs that provide services to homeless individuals, or to those at risk of becoming homeless.

"(b) REQUIREMENT FOR EVALUATION ACTIVITIES.—In carrying out the purpose described in subsection (a), the Secretary shall conduct evaluations that shall include—

"(1) the use of cost and utilization data collected under the Primary Health Care for the Homeless Program under section 340 of the Public Health Service Act to conduct an evaluation, in consultation with organizations receiving grants under this title and with the national representatives of such organizations, of the impact of health, case management and referral services provided by a representative sample of grantees concerning client outcome;

"(2) under part C of title V, an evaluation of the need for and availability of services for individuals who are homeless or at risk of becoming homeless that have a serious mental illness or substance abuse problem, with special attention paid to the service needs of the dually diagnosed;

"(3) an evaluation to identify and document replicable, community-wide programs that provide integrated, comprehensive services that result in service delivery models which prevent homelessness or lead to the successful relocation of the homeless into permanent housing; and

"(4) an identification through the evaluation conducted under this subsection of those areas where services are lacking.

"SEC. 756. REPORT BY THE SECRETARY.

"Not later than 12 months after the date of the enactment of this section, the Secretary of Health and Human Services shall—

"(1) complete, in consultation with appropriate members of the Interagency Council on the Homeless, a study of the extent to which Federal laws, regulations, or policies are inappropriately or inadvertently hindering Federal facilities (such as cafeterias in the facilities of the Department of Defense and Department of Veterans' Affairs) from making available to programs or entities serving the homeless prepared food that is not consumed; and

"(2) prepare and submit, to the appropriate Committees of Congress, a report containing the findings made as a result of the study conducted under paragraph (1), including any recommendations with respect to administrative and legislative initiatives that would permit Federal facilities to make available to entities serving the homeless such excess prepared food.".

SEC. 107. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

(a) FINDINGS.—Congress finds that—

(1) homelessness is a growing national tragedy;

(2) as many as one-third of the homeless people in the United States are members of families with children;

(3) families represent the fastest growing segment of the homeless population;

(4) homelessness too often results in the placements of children into out-of-home care, or delays the reunification of such children with their parents; and

(5) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families.

(b) AMENDMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) (as amended by Public Law 101-126) is

amended by adding at the end thereof the following new title:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

"(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

"(2) the abuse and neglect of such children.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

"(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

"(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

"(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

"(A) threatening the well-being of children; and

"(B)(i) contributing to the placement of children in out-of-home care;

"(ii) preventing the reunification of children with their families; or

"(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(d) DURATION OF ASSISTANCE.—The period during which payments are made to an agency from a grant under subsection (a) shall not exceed 3 fiscal years. The Secretary shall not make payments for the second or third fiscal year of the grant unless the Secretary determines that, for the preceding fiscal year, the agency has complied with each of the agreements on which the grant is conditioned.

"SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.

"(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

"(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

"(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

"(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

"(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

"(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

"(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

"(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

"(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

"(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

"(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

"(B) in obtaining appropriate resources for families who need social services, including respite care, and support;

"(3) the provision of emergency housing-related assistance necessary to prevent the placement of children in out-of-home care, to facilitate the reunification of children with their families, and to enable the discharge of youths not less than 16 years of age from such care, including assistance in meeting the costs of—

"(A) rent or utility arrears to prevent an eviction or termination of utility services;

"(B) security and utility deposits, first month's rent, and basic furnishings; and

"(C) other housing-related assistance;

"(4) the provision to families, and to youths not less than 16 years of age who are preparing to be discharged from such care, of temporary rent subsidies necessary to prevent the initial or prolonged placement of children in out-of-home care, which subsidies are provided in an amount not exceeding 70 percent of the local fair market rental value and are provided for a period not to exceed 180 days;

"(5) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

"(6) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

"SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

"(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

"(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

"(A) the incidence of placements of children in out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

"(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

"(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

"(3) facilitating the reunification of children with their families; and

"(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(c) REPORT TO CONGRESS.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of the programs established under this title in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

"(1) information describing the localities in which activities are conducted;

"(2) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

"(3) information concerning the nature of the joint training conducted with grant funds; and

"(4) information concerning the impact of programs supported with grant funds on—

"(A) the incidence of the placement of children into out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

"SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary shall not make a grant under section 301(a) unless—

"(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

"(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

"(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

"SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1993.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The Child Abuse and Prevention Act (42 U.S.C. 5101 et seq.) is amended in the table of contents in section 101(b) by adding at the end thereof the following new items:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.

"Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.

"Sec. 303. Additional required agreements.

"Sec. 304. Description of intended uses of grant.

"Sec. 305. Requirement of submission of application.

"Sec. 306. Authorization of appropriations.".

TITLE II—HOMELESSNESS PREVENTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Homelessness Prevention and Community Revitalization Act of 1990".

SEC. 202. PURPOSE.

It is the purpose of this title—

(1) help create safe, positive environments for families, children and individuals in low income housing and neighborhoods;

(2) reduce homelessness and institutionalization by making permanent housing accessible and hospitable to low income families, homeless veterans, frail elderly and individuals of special needs; and

(3) prevent additional homelessness by providing on-site social services and case management to families and individuals who are at risk of homelessness due to income level, illness, mental illness or lack of social and economic support networks.

Subtitle A—Family Support Centers

SEC. 211. DEFINITIONS.

As used in this subtitle:

(1) ADVISORY COUNCIL.—The term "advisory council" means the advisory council established under section 212(d)(2)(K).

(2) ELIGIBLE AGENCY.—The term "eligible agency" means State or local agencies, a Head Start agency, any community-based organization including an organization officially designated as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, and in addition includes an institution of higher education, a public hospital, a community development corporation, a community health center, and any other public or private nonprofit agency or organization specializing in delivering social services.

(3) FAMILY CASE MANAGERS.—The term "family case managers" means advisers operating under the provisions of section 216.

(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term "governmentally subsidized housing" means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

(5) HOMELESS.—The term "homeless" has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a) and (c)).

(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term "intensive and comprehensive supportive services" means—

(A) in the case of services provided to infants, children and youth, infant and child primary and health services designed to enhance the physical, social, emotional, educational and intellectual development of such infants and children and that shall include, where appropriate, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness services, education and support services for youth (including basic skills and literacy services), and nutritional services;

(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling and treatment or referral for treatment, employment counseling and training as appropriate, life-skills training and personal financial counseling, education including basic skills and literacy services, parenting classes, health care and mental health services, peer counseling and crisis intervention services; and

(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment or referral for treatment, family violence counseling services, violence counseling and peer support services, family advocacy services, and housing assistance activities including emergency rental or mortgage assistance payments, housing counseling and eviction or foreclosure prevention assistance.

(7) LOW INCOME.—The term "low income" when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) VERY LOW INCOME.—The term "very low income" when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

SEC. 212. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, emotional, educational, and intellectual development of low-income families, especially those very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless.

(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

(2) the proximity of the agencies and facilities associated with the program to the low-income families to be served by the pro-

gram or the ability of the agency to provide offsite services;

(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, and other relevant services), with public or private non-profit agencies and organizations that provide assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

(4) the management and accounting skills of the eligible agency;

(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program; and

(6) the involvement of project participants and community representatives in the planning and operation of the program.

(d) REQUIREMENTS.—

(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall—

(A) if a planning grant application has been approved for such agency under section 213(b), have such application on file with the Secretary;

(B) have experience in providing or arranging for the provision of services such as those required under this section; and

(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

(A) identify the population and geographic location to be served by the program;

(B) provide assurances that services are closely related to the identifiable needs of the target population;

(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

(D) identify the referral providers, agencies, and organizations that the program will use;

(E) describe the method of furnishing services at offsite locations, if appropriate;

(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, social, substance abuse, and income maintenance services;

(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

(J) describe the manner in which the applicant will implement the requirement of section 214;

(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall consist of not more than 15 members that shall include—

(i) prospective participants in the program;

(ii) representatives of local private industry;

(iii) individuals with expertise in the services the program intends to offer;

(iv) representatives of the community in which the program will be located;

(v) representatives of local government social service providers;

(vi) representatives of local law enforcement agencies; and

(vii) representatives of the local public housing agency, where appropriate;

(L) describe plans for evaluating the impact of the program;

(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(e) FAMILY SUPPORT CENTER.—Each program that receives assistance under this section shall establish at least one family support center that shall operate out, or in the immediate vicinity, of governmentally subsidized housing. Such centers shall be the primary location for the administration of the programs and the provision of services under this subtitle.

SEC. 213 PLANNING GRANTS.

(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 212.

(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require. Each such application shall—

(1) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to this subtitle;

(2) describe the low-income families to be served by the program including the number to be served and information on the population and geographic location to be served;

(3) describe how the needs of individuals identified under paragraph (2) will be met by the program;

(4) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

(5) describe the manner in which the program will be operated together with the involvement of other community groups and public agencies;

(6) specify the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

(7) contain assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 212(d)(2)(K), that shall include—

(A) prospective participants in the program,

(B) individuals with expertise in the services the program intends to offer;

(C) representatives of the community in which the program will be located;

(D) representatives of local government social service providers;

(E) representatives of local law enforcement agencies; and

(F) representatives of local public housing agencies;

(8) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

(9) contain an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 212; and

(10) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(c) ADMINISTRATIVE PROVISIONS.—

(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this subsection.

(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 212 unless such applicant receives a grant under this section.

(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

SEC. 214. TRAINING AND RETENTION.

The Secretary shall require that agencies that receive a grant under section 212 use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

SEC. 215. AMOUNTS OF GRANTS.

(a) IN GENERAL.—The Secretary shall pay to an eligible agency having an application approved under section 212 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

(c) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

(2) PRIVATE CONTRIBUTIONS.—Of the non-Federal share, 25 percent of such amount shall be provided through contributions from private entities.

(d) PAYMENTS.—Payments under this subtitle may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

SEC. 216. FAMILY CASE MANAGERS.

(a) REQUIREMENT.—Each program that receives a grant under section 212 shall employ, subject to subsection (e), an appro-

priate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this shall be assessed by a family case manager on such family's initial visit to such program as to their need for services.

(c) CONTINUING FUNTIONS.—Family case managers shall formulate a plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and services, including school advocacy services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities.

(d) SPECIAL SERVICES.—Case managers shall provide comprehensive services as required under the application submitted under section 212, that places special emphasis on services relating to substance abuse and domestic violence.

(e) LIMITATION.—No family crisis adviser shall carry a caseload of in excess of 20 families.

SEC. 217. EVALUATIONS.

(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this subtitle be evaluated, by a third party with expertise in the types of services to be provided under this subtitle, on an annual basis.

(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this subtitle in—

(1) enhancing the living conditions in low income housing and in neighborhoods;

(2) improving the physical, social, emotional, educational, and intellectual development of low income children and families served by the program;

(3) increasing the self-sufficiency of families served by the program; and

(4) such other factors that the Secretary may reasonably require.

(c) INFORMATION.—Each eligible agency receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

SEC. 218. REPORT.

Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

(1) concerning the evaluations required under section 217, together with such recommendations as the Secretary considers appropriate; and

(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle.

SEC. 219. CONSTRUCTION.

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

SEC. 220. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

Subtitle B—Provision of Services to Elderly Individuals and Individuals With Chronic and Debilitating Illnesses and Conditions

SEC. 231. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"PART L—PROVISION OF SERVICES TO FRAIL ELDERLY INDIVIDUALS AND INDIVIDUALS WITH CHRONIC AND DEBILITATING ILLNESSES AND CONDITIONS

"SEC. 399B. DEFINITIONS.

"As used in this part:

"(1) ADVISORY COUNCIL.—The term 'advisory council' means the advisory council established under section 399C(d)(2)(K).

"(2) ELIGIBLE AGENCY.—The term 'eligible agency' means any community-based organization, State or local agency, community health center, public or private non-profit agency or other institution that will provide or arrange for the provision of appropriate comprehensive services to frail elderly or seriously ill individuals.

"(3) FRAIL ELDERLY.—The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes part.

"(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of low income families or individuals.

"(5) HOMELESS.—The term 'homeless' has the same meaning given such term in subsection (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

"(7) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 399C. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies to pay the Federal share of the cost of programs designed to encourage the provision of eligible services to low-income elderly or low-income seriously ill individuals, especially those very low income elderly or seriously ill individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

"(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

"(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the agencies and facilities associated with the program to the low-income individuals to be served by the program, or the ability of the agency to provide offsite services;

"(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for health and mental health services, social services, nutrition, and other relevant services), with public or private non-profit agencies providing assistance to homeless individuals and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) the management and accounting skills of the eligible agency;

"(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program;

"(6) the involvement of program participants and community representatives in the planning and operation of the program; and

"(7) the demonstrated or potential effectiveness of the eligible agency in serving the populations or subpopulations intended to be served under this section.

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) APPLICATION.—Each application submitted under paragraph (1) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of eligible services of the type described in section 399D;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

"(G) describe how the program will relate to the State and local agencies providing health, nutritional, social, and income maintenance services;

"(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(J) describe the manner in which the applicant will implement the requirement of section 399F;

"(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall include—

"(i) prospective participants in the program;

"(ii) individuals with expertise in the services the program intends to offer;

"(iii) representatives of the community in which the program will be located;

"(iv) representatives of local government social service providers;

"(v) community based organizations with a history of providing service to participants;

"(vi) representatives of local public housing agencies, where appropriate; and

"(vii) representatives of local health care professions;

"(L) describe plans for evaluating the impact of the program;

"(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

"(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(e) HOME HEALTH SERVICE PROGRAM.—Each recipient that receives assistance under this section shall establish at least one home health service program that shall operate out of, or in the immediate vicinity of, governmentally subsidized housing. Such programs shall be the primary location for the administration of the programs and the provision of services under this part. Such programs may operate out of existing family support centers.

"SEC. 399D. PLANNING GRANTS.

"(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 399C.

"(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require, including—

"(1) a description of the capacity of the eligible agency to provide or ensure the availability of services pursuant to this part;

"(2) a description of the low-income frail elderly or low-income seriously ill individuals to be served by the program including the number to be served and information on the population and geographic location to be served;

"(3) a description of the needs of individuals identified under paragraph (2) that will be met by the program;

"(4) a description of the services that program planners intend to address in the development of the plan;

"(5) a description of the manner in which the program will be operated together with the involvement of other community groups and public agencies;

"(6) a specification of the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

"(7) assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 399C(d)(2)(K), that shall include—

"(A) prospective participants in the program,

"(B) individuals with expertise in the services the program intends to offer;

"(C) representatives of the community in which the program will be located;

"(D) representatives of local government social service providers;

"(E) representatives of local public housing agencies, where appropriate;

"(8) a description of the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

"(9) an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 399C; and

"(10) an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant State and local funds currently utilized to provide services of the type described in this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

"(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this section.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 399C unless such applicant receives a grant under this section.

"(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

"SEC. 399E. ELIGIBLE SERVICES.

"(a) IN GENERAL.—Grants awarded under this part shall be used to provide services of the type described in subsection (b) to low-income frail elderly or low income seriously ill individuals.

"(b) SERVICES.—Agencies receiving grants under this part shall use such grants to provide comprehensive services, in accordance with the service plan, that shall include, where appropriate—

"(1) 24-hours nursing supervision services;

"(2) case management services;

"(3) home health care services;

"(4) homemaker services;

"(5) meal provision services;

"(6) attendant services;

"(7) volunteer visiting services;

"(8) adult day care service;

"(9) treatment for substance abuse;

"(10) hospice services;

"(11) post hospitalization respite care services;

"(12) transportation services;

"(13) assistance in accessing and maintaining appropriate public assistance;

"(14) housing assistance activities, including emergency rental or mortgage assistance payments, housing counseling, and eviction or foreclosure prevention assistance;

"(15) mental health services; and

"(16) any other services determined appropriate by the Secretary.

"(c) COORDINATION.—Programs that receive assistance under this part shall be coordinated with a local hospital or community health center that regularly provides emergency medical care services.

"(d) SET-ASIDE FOR ELDERLY.—The Secretary shall require that at least 20 percent of the grants made under this part shall be set-aside for the provision of subsidized housing-based services to elderly individuals, especially those very low income elderly individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"SEC. 399F. TRAINING AND RETENTION.

"The Secretary shall require that agencies that receive a grant under section 399C use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

"SEC. 399G. AMOUNTS OF GRANTS.

"(a) IN GENERAL.—The Secretary shall pay to eligible agencies having applications approved under sections 399C the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

"(c) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(2) CASH.—At least 25 percent of the non-Federal share under paragraph (1) shall be in the form of cash.

"(d) PAYMENTS.—Payments under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"SEC. 399H. EVALUATIONS.

"(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this part are evaluated, by a third party with expertise in the types of services to be provided under this part, on an annual basis.

"(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this part in—

"(1) enhancing the living conditions for low income frail elderly and seriously ill individuals;

"(2) improving the opportunity for individuals served by the program to live independently and to avoid institutionalization; and

"(3) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible agency receiving a grant under this part shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

"SEC. 399I. REPORT.

"Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

"(1) concerning the evaluations required under section 399H, together with such recommendations, including recommendations for legislation, as the Secretary considers appropriate; and

"(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this part.

"SEC. 399J. CONSTRUCTION.

"Nothing in this part shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 399K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

Subtitle C—Projects to Aid the Transition from Homelessness

SEC. 241. PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Service Act (42 U.S.C. 290cc et seq.) is amended to read as follows:

"PART C—PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

"SEC. 521. SHORT TITLE.

"This part may be cited as the 'Projects to Aid the Transition from Homelessness (PATH) Act of 1990'.

"SEC. 522. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, a metropolitan city, or an urban county.

"(2) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual, including a veteran, who is—

"(A) afflicted with serious mental illness, alcoholism, substance abuse or a combination thereof; and

"(B) homeless or at imminent risk of becoming homeless.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

"(4) SERVICE PROVIDER.—The term 'service provider' includes any general purpose unit of local government, a city, county, town, township, parish, village or combination thereof, a public or private non-profit agency including a veterans' community based service provider, or a community based organization.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau.

"(6) URBAN COUNTY.—The term 'urban county' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 523. ALLOTMENT.

"(a) IN GENERAL.—The Secretary shall utilize amounts appropriated under section 532 in each fiscal year, to make an allotment to metropolitan cities, urban counties, and States (for distribution to service providers in the States) in the same manner as the Secretary of Housing and Urban Development makes allocations under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), except that the Secretary shall—

"(1) substitute 50 percent for 70 percent in subsection (a) of such section 106; and

"(2) substitute 50 percent for 30 percent in subsection (d) of such section 106.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—If, under the allotment provisions applicable under this part, any city or urban county would receive an allotment of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallotted to the State, except that any metropolitan city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allotted to such city under subsection (a).

"(2) MINIMUM.—Notwithstanding any other provision of law, the total amount allotted to each State under this part, including amounts allotted to each eligible entity within the State, shall not be less than—

"(A) $500,000; or

"(B) the amount of the allotment such State received pursuant to this part in fiscal year 1990 plus 30 percent of such allotment.

"(3) RATABLE REDUCTION.—The Secretary shall ratably reduce the allotments made pursuant to subsection (a) in order to carry out the provisions of this subsection.

"(c) ALLOTMENTS TO TERRITORIES.—In addition to the other allotments required in this section, the Secretary shall (for amounts appropriated under section 532) make allotments under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau, and any other territory or possession of the United States, in accordance with an allotment formula established by the Secretary, but in no case shall the total amount allotted to all of the territories and possessions exceed 2 percent of the total amount appropriated under section 532.

"(d) REMAINING AMOUNTS.—The Secretary may allocate any unclaimed or remaining funds to eligible entities determined by the Secretary to be in need of additional assistance.

"(e) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under this part to an eligible entity unless such entity agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided under the allotment.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Except as provided in paragraph (3), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(3) SPECIAL RULE.—Funds received pursuant to section 106 of the Housing and Community Development Act of 1974, and the value of any property, buildings, or housing received and fairly evaluated may be included in determining the amount of such non-Federal contributions.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (1) for metropolitan cities and urban counties which are unable to provide such matching funds.

"(5) PARTICIPATING LOCALITIES.—Each State receiving an allotment under this part shall not require participating localities to provide non-Federal contributions in excess of the non-Federal contributions described in paragraph (1).

"SEC. 524. ALLOTMENT APPLICATION.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Each eligible entity desiring an allotment under section 523 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) APPLICATION PERIOD.—The Secretary shall provide for a 90 day period during which applications may be submitted pursuant to paragraph (1).

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities and services for which the allotment is sought;

"(2) identify existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(3) include a plan for providing services and housing to eligible homeless individuals that shall—

"(A) describe the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) include documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(4) describe the source of the non-Federal contributions described in section 523;

"(5) contain assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(6) describe any voucher system that may be used to carry out this part; and

"(7) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 525. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF GRANT FUNDS.

"(a) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity for any fiscal year unless—

"(1) the eligible entity submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the eligible entity is applying pursuant to such section;

"(2) such description identifies the geographic areas within the eligible entity in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be

supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the eligible entity agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the eligible entity pursuant to section 523.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall not make an allotment under section 523 to an eligible entity for a fiscal year unless the eligible entity agrees that, in developing and carrying out the description required in subsection (a), the eligible entity will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 526. USE OF ALLOTMENT.

"(a) USE OF ALLOTMENT.—

"(1) IN GENERAL.—Each eligible entity receiving an allotment under to section 523 shall use such allotment to pay the Federal share of awarding grants to or entering into contracts with service providers to enable such service providers to provide comprehensive services and allowable housing assistance to homeless individuals in accordance with the provisions of this part.

"(2) SPECIAL CONSIDERATION.—Each eligible entity receiving an allotment under section 523 shall give special consideration to the provision of services to homeless veterans who are otherwise eligible for services under this subtitle. In providing such services to homeless veterans, such eligible entities shall give priority to service providers with a demonstrated effectiveness in serving homeless veterans.

"(3) FEDERAL SHARE.—The Federal share shall be 75 percent.

"(4) SPECIAL RULE.—Each eligible entity receiving an allotment under section 523 shall use at least two-thirds of such allotment to assist eligible homeless individuals who have—

"(A) a primary diagnosis of a serious mental illness; or

"(B) a diagnosis involving a serious mental illness and substance abuse.

"(5) COORDINATION.—Each eligible entity receiving an allotment under section 523 shall only make grants pursuant to paragraph (1) to service providers that have the capacity to meet or coordinate the comprehensive services and housing needs of eligible homless individuals, including referral services. Such capacity includes contractual arrangements and viable referral plans among service providers of mental health, substance abuse, or housing services so that the comprehensive needs of individuals who are both mentally ill and substance abusers are met.

"(6) ADMINISTRATIVE EXPENSES.—Notwithstanding the provisions of this subsection, each eligible entity receiving an allotment pursuant to section 523 may reserve not to exceed 4 percent of such allotment for administrative expenses.

"(b) SPECIAL RULES.—Each eligible entity receiving an allotment under section 523 shall not award a grant to a service provider that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; and

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(c) SUPPLEMENTATION.—Each eligible entity receiving an allotment under section 523 shall only use such funds to supplement and not supplant Federal, State and local government funds currently utilized to provide services of the type described in this part.

"SEC. 527. LOCAL APPLICATION.

"Each service provider desiring a grant pursuant to section 526(a) shall submit an application to the appropriate eligible entity at such time, in such manner and accompanied by such information as the eligible entity may reasonably require.

"SEC. 528. LOCAL USE OF GRANT FUNDS.

"(a) SERVICES.—Grants awarded pursuant to section 526(a) shall be used to provide either on-site or off-site services to eligible homeless individuals, including homeless veterans. Such services shall include—

"(1) outreach and engagement services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individual, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such Act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referral to primary health services;

"(10) referral to job training and education programs; and

"(11) referral to other relevant service or housing programs.

"(b) HOUSING.—Not to exceed 20 percent of amounts received under a grant awarded pursuant to section 526(a) may be used for—

"(1) minor renovation, expansion, and repair;

"(2) planning;

"(3) technical assistance in applying for housing assistance;

"(4) improving the coordination of housing services;

"(5) security deposits;

"(6) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(7) one time rental payments to prevent eviction.

"(c) LIMITATIONS.—Grants awarded pursuant to section 526(a) shall not be used—

"(1) to support emergency shelters or construction of housing facilities;

"(2) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; and

"(3) to make cash payments to intended recipients of mental health, substance abuse, or housing services.

"SEC. 529. COORDINATION.

"(a) IN GENERAL.—The Secretary shall provide for coordination among eligible entities of housing and service strategies used in carrying out the provisions of this part.

"(b) INFORMATION.—In carrying out the provisions of subsection (a) the Secretary shall make available to eligible entities—

"(1) the information contained in the application and plan submitted pursuant to section 524; and

"(2) the annual report described in section 531.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, may provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

"SEC. 531. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 523 were expended and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United

States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operation.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $120,000,000 for fiscal year 1991, and $150,000,000 for each of the fiscal years 1992 through 1995 to carry out this part.".

Subtitle D—Community Development Corporation Improvement Grants

SEC. 251. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

Part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 634. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop low-income housing and to develop community economic development projects.

"(2) USE OF FUNDS.—Grantees may use funds obtained under this section—

"(A) to purchase training and technical assistance from agencies or institutions that have experience in the construction, development and management of low-income housing or experience in community economic development; or

"(B) to purchase such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to support an administrative capability for planning, developing, constructing and managing low-income housing, and for other community economic development projects.

"(2) USE OF FUNDS.—Of amounts made available in any fiscal year for operating grants under this subsection, the Secretary of Health and Human Services shall use—

"(A) 40 percent of such amounts to assist in starting up community development corporations; and

"(B) 60 percent of such amounts to assist established community development corporations.

"(3) TERMS AND CONDITIONS.—Assistance provided through operating grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(d) GRANTS FOR COMMUNITY DEVELOPMENT CORPORATION EQUITY ACCOUNTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to any nongovernmental, nonprofit entity that is principally involved with the development, construction or management of low-income housing, or to community development corporations, to enable such entities to establish and maintain equity accounts with which such corporations may plan, develop, construct and manage low-income housing.

"(2) TERMS AND CONDITIONS.—Assistance provided through equity account grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(e) APPLICATIONS.—Community development corporations that desire to receive assistance under this section shall prepare and submit, to the Secretary of Health and Human Services, an application at such time, in such form, and containing such information as the Secretary shall reasonably require. Such Secretary shall not require project-specific information for applications for assistance under subsections (b), (c) and (d).

"(f) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

"(2) USE.—The Secretary of Health and Human Services shall use—

"(A) 20 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (b);

"(B) 30 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (c); and

"(C) 50 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (d).

"(3) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(h) DEFINITION.—As used in this section, the term 'community development corporation' means a nonprofit entity of the type described in this section and that meets the resident control and governing body requirements of 42 U.S.C. 9807(a)(1).".

Subtitle E—Public Housing Gateway

SEC. 261. SHORT TITLE.

This subtitle may be cited as the "Public Housing Gateway Act of 1990".

SEC. 262. STATEMENT OF PURPOSE.

The purpose of this subtitle is to establish programs, through public housing agencies, to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. 263. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Labor may make grants under this subtitle to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) SELECTION OF GRANT RECIPIENTS.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) PROVISION OF FACILITIES.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this subtitle.

(2) NEED AND CAPABILITY TO PROVIDE SERVICES.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section 264(a) to individuals qualified to receive the training and services under section 265.

(3) PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this subtitle will be provided only to individuals qualified to receive the training and services under section 265.

(4) PROVISION OF SERVICES TO YOUNG FAMILIES.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this subtitle will be provided to residents of public housing projects where a significant number of young families receiving public assistance reside.

(5) COOPERATION WITH PRIVATE, NON-PROFIT ORGANIZATIONS, OR COMMUNITY BASED ORGANIZATIONS.—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, non-profit organizations, or community based organizations that are to provide training and services under this subtitle and are located in the same community as the public housing agency.

(c) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) PRIORITY.—The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, nonprofit organizations, or community based organizations.

SEC. 264. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section 263 shall use the grant to establish a gateway program to make available to individuals eligible under section 265 all of the following training and services, subject to the limitations of section 265:

(1) INFORMATION.—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this subtitle.

(2) LITERACY TRAINING.—Literacy training and bilingual training.

(3) BASIC SKILLS TRAINING.—Remedial education and training in basic skills.

(4) DEVELOPMENT OF WORK HABITS.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) CHILD CARE.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) PERMISSIVE TRAINING AND SERVICES.—Public housing agencies that receive grants under section 263 may make available as part of their gateway programs to individuals qualified under section 265 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section 265, including the following:

(1) EMPLOYMENT ASSISTANCE.—Assistance in acquiring employment.

(2) EMPLOYMENT COUNSELING.—Employment counseling and vocational exploration services.

(3) DEVELOPMENT OF JOBS.—Development of employment positions.

(4) PRIVATE JOB TRAINING.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.—Training or services coordinated with other Federal employment-related activities.

(6) HIGH SCHOOL EDUCATION.—Assistance in the attainment of certificates of high school equivalency.

(7) COMPUTER SKILLS TRAINING.—Training in computer skills for use in education, skills training, and employment preparation.

(8) TRAINING IN APPLICATION OF SKILLS.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) TRANSITIONAL ACTIVITIES.—Activities designed to provide transition from education to employment.

(10) DRUG PREVENTION SERVICES.—Services to assist individuals with drug prevention, drug counseling, and drug education programs.

(11) SUPPORT SERVICES.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. 265. LIMITATIONS ON GATEWAY PROGRAMS.

(a) ELIGIBILITY IN GENERAL.—Public housing agencies receiving grants under this subtitle shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) RESIDENCY.—The individual shall be a resident of public housing.

(2) AGE.—The individual shall be not more than 25 years of age.

(3) ECONOMIC DISADVANTAGE.—The individual shall be economically disadvantaged.

(4) EDUCATIONAL DISADVANTAGE.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) LIMITATIONS ON CHILD CARE SERVICES.—

(1) ELIGIBILITY.—Public housing agencies receiving grants under this subtitle shall limit the provision of child care services under section 264(a)(5) to the following individuals:

(A) PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services;

(B) UNEMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) COMMENCEMENT.—The period shall begin on the completion of the training or services by the individual.

(ii) TERMINATION.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this subtitle.

(C) EMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this subtitle, during the 12-month period that begins with commencement of the employment of the individual.

(2) COMPLIANCE WITH STATE AND LOCAL LAWS.—A public housing agency that provides child care services under this subtitle shall ensure that the child care complies with applicable State and local laws.

(c) LIMITATIONS ON SUPPORT SERVICES.—An individual may receive support services under this subtitle after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) LIMITATION ON NONRESIDENT PERSONNEL.—A public housing agency receiving a grant made under this subtitle shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. 266. EFFECT OF GATEWAY PROGRAMS.

(a) NONCONSIDERATION AS INCOME FOR PARTICIPATING INDIVIDUALS.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) PERIOD OF PARTICIPATION UNDER GATEWAY PROGRAM.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) EMPLOYMENT PERIOD.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) COMMENCEMENT.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this subtitle.

(B) TERMINATION.—The period shall end on whichever of the following occurs first—

(i) the expiration of the 18-month period following the commencement of the period described in subparagraph (A); or

(ii) the individual ceases to continue employment without good cause, as the Secretary shall determine.

(b) PUBLIC HOUSING OPERATING ASSISTANCE.—The use of the facilities of a public housing agency receiving a grant under this subtitle in the provision of training or services under a gateway program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. 267. REVIEW AND SANCTIONS.

(a) REVIEW.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this subtitle with the provisions of this subtitle.

(b) SANCTIONS FOR NONCOMPLIANCE.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this subtitle, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this subtitle until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary shall not make further grant payments to the public housing agency under this subtitle.

SEC. 268. REPORTS.

The Secretary shall transmit to the President and to the appropriate Committees of Congress a report containing a detailed statement of the activities of the public housing agencies receiving grants under this subtitle and the recommendations for any action the Secretary considers appropriate. Such reports shall include an evaluation of the effectiveness of such activities in enhancing the employability of residents of public housing.

SEC. 269. DEFINITIONS.

As used in this subtitle:

(1) BASIC SKILLS.—The term "basic skills" means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(2) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(3) GATEWAY PROGRAM.—The term "gateway program" means a program for the provision of training and services described in section 264 established by a public housing agency under a grant made by the Secretary under this subtitle.

(4) LITERACY.—The term "literacy" means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(5) OFFICER.—The term "officer" has the meaning given the term in section 2104 of title 5, United States Code.

(6) PUBLIC ASSISTANCE.—The term "public assistance" means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(7) PUBLIC HOUSING.—The term "public housing" has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SUPPORT SERVICES.—The term "support services" means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section 264(a)(5) and services under section 264(b)(10).

SEC. 270. REGULATIONS.

The Secretary shall promulgate regulations necessary to carry out this subtitle.

SEC. 271. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $40,000,000 for fiscal year 1991, and $50,000,000 for each of the fiscal years 1992 through 1995. Any amount appropriated under this section shall remain available until expended.

Subtitle F—Homeless Youth Demonstration Projects

SEC. 281. SHORT TITLE.

This subtitle may be cited as the "Homeless Youth Demonstration Project Act of 1990".

SEC. 282. DEMONSTRATION PROJECTS.

Subtitle E of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11472 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 763. DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HOMELESS YOUTH.—The term 'homeless youth' means an individual who is 21 years of age or younger, is in need of services, and lacks a permanent place of shelter that provides appropriate supervision and care for such individual or who resides in a group home on a temporary basis.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish not to exceed three demonstration projects that are designed to assist private and public agencies and organizations in working together to provide a network of comprehensive services, including medical, mental health, health, legal, social, outreach, and emergency services, to homeless youth.

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award grants to not to exceed three private, nonprofit organizations with demonstrated success in providing direct services to homeless youth, in subcontracting for such services, and in coordinating the provision of such services with other agencies, as referred to in paragraph (1).

"(B) LOCATION.—In awarding grants under subparagraph (A), the Secretary shall select organizations that are located in urban areas with a high concentration of out-of-city, out-of-county, and out-of-State homeless youth.

"(C) ABILITY TO PROVIDE SERVICES.—To be eligible for a grant under subparagraph (A), an organization shall demonstrate to the Secretary the ability of such organization, or another competent organization with which such organization has a subcontract, to provide a comprehensive network of each of the services described in paragraph (1).

"(D) PREFERENCE.—In awarding grants under subparagraph (A), the Secretary shall give preference to organizations that would involve a network of public and private agencies in the delivery of services to homeless youth.

"(3) EVALUATION OF DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall monitor each demonstration project established under paragraph (1) to determine whether such project is complying with the requirements of this section.

"(B) INDEPENDENT EVALUATOR.—

"(i) IN GENERAL.—The Secretary shall contract with an independent evaluator to evaluate the process and outcome of each demonstration project established under paragraph (1), and to make suggestions for the implementation of other similar demonstration projects in other areas of the country.

"(ii) STABILITY OF HOMELESS YOUTH.—The independent evaluator referred to in clause (i) shall assess the stability of homeless youth that are served by a demonstration project established under paragraph (1) after such youth are either reunited with family or settled in a stable environment.

"(4) ELIGIBLE YOUTH.—

"(A) IN GENERAL.—Except as provided for in subparagraph (B), an individual wishing to receive services under this section shall be not more than 21 years of age.

"(B) EXCEPTION.—The Secretary may grant waivers to provide services under this section to individuals who are 22 through 24 years of age for not more than 10 percent of the funds awarded for grants under paragraph (2).

"(5) LENGTH OF DEMONSTRATION PROJECTS.—Each of the demonstration projects established under paragraph (1) shall not exceed a period of 3 years.

"(6) AUTHORIZATION OF APPROPRIATION.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991, 1992, and 1993.

"(B) INDEPENDENT EVALUATOR.—Of the amounts authorized to be appropriated under subparagraph (A), not to exceed $500,000 shall be utilized for the contract referred to in paragraph (3)(B).".

Subtitle G—Plan for Cooperation

SEC. 291. PLAN FOR COOPERATION.

(a) IN GENERAL.—Not later than the date on which regulations necessary to carry out subtitle A, part L of title III of the Public Health Service Act (as added by subtitle B), part C of title V of the Public Health Service Act (as added by subtitle C), section 634 of the Community Economic Development Act of 1981 (as added under subtitle D), or subtitle E are issued, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a plan concerning the programs to be carried out under such subtitle, parts, and section.

(b) CONTENTS.—The plan prepared under subsection (a) shall—

(1) describe the method in which the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall consult with one another in implementing and administering the programs described in subsection (a) and coordinate the implementation of such programs with other relevant programs and Acts (including the programs established under the Stewart B. McKinney Homeless Assistance Act, or the amendments made by such Act, and under Federal housing Acts);

(2) contain an assurance that such Secretaries will consult with one another on an ongoing and continuous basis in such implementation; and

(3) contain procedures, developed by the Secretary of Housing and Urban Development, for granting priority in the provision of construction, rehabilitation or renovation assistance by such Secretary, to applicants that receive grants under the subtitle, parts, and section referred to in subsection (a).

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

I also move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR—H.R. 5558

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 5558 be placed on the calender.

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

NATIONAL POLICY ON PERMANENT PAPERS

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 57.

The PRESIDING OFFICER laid before the Senate the following mes-

sage from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 57) entitled "Joint resolution to establish a national policy on permanent papers," do pass with the following amendments:

Strike out all after the resolving clause, and insert:

Section 1. It is policy of the United States that Federal records, books, and publications of enduring value be produced on acid free permanent papers.

Sec. 2. The Congress of the United States urgently recommends that—

(1) Federal agencies require the use of acid free permanent papers for publications of enduring value produced by the Government Printing Office or produced by Federal grant or contract, using the specifications for such paper established by the Joint Committee on Printing;

(2) Federal agencies require the use of archival quality acid free papers for permanently valuable Federal records and confer with the National Archives and Records Administraton on the requirements for paper quality;

(3) American publishers and State and local governments use acid free permanent papers for publications of enduring value, in voluntary compliance with the American National Standard;

(4) all publishers, private and governmental, prominently note the use of acid free permanent paper in books, advertisements, catalogs, and standard bibliographic listings; and

(5) the Secretary of State, Librarian of Congress, Archivist of the United States, and other Federal officials make known the national policy regarding acid free permanent papers to foreign governments and appropriate international agencies since the acid paper problem is worldwide and essential foreign materials being imported by our libraries are printed on acid papers.

Sec. 3. The Librarian of Congress, the Archivist of the United States, and the Public Printer shall jointly monitor the Federal Government's progress in implementing the national policy declared in section 1 regarding acid free permanent papers and shall report to the Congress regarding such progress on December 31, 1991, December 31, 1993, and December 31, 1995. In carrying out the monitoring and reporting functions under this section, the Librarian of Congress, the Archivist of the United States, and the Public Printer may consult with the National Endowment for the Humanities, National Agricultural Library, National Library of Medicine, other Federal and State agencies, international organizations, private publishers, paper manufacturers, and other organizations with an interest in preservation of books and historical papers.

Amend the preamble so as to read:

Whereas it is now widely recognized and scientifically demonstrated that the acidic papers commonly used for more than a century in documents, books, and other publications are self-destructing and will continue to self destruct;

Whereas Americans are facing the prospect of continuing to lose national, historical, scientific, and scholarly records, including government records, faster than salvage efforts can be mounted despite the dedicated efforts of many libraries, archives, and agencies, such as the Library of Congress and the National Archives and Records Administration;

Whereas nationwide hundreds of millions of dollars will have to be spent by the Federal, State, and local governments and private institutions to salvage the most essential books and other materials in the libraries and archives of government, academic, and private institutions;

Whereas paper manufacturers can produce a sufficient supply of acid free permanent papers with a life of several hundred years, at prices competitive with acid papers, if publishers would specify the use of such papers, and some publishers and many university presses are already publishing on acid free permanent papers;

Whereas most Government agencies do not require the use of acid free permanent papers for appropriate Federal records and publications;

Whereas librarians, publishers, and other professional groups have urged the use of acid free permanent papers;

Whereas even when books are printed on acid free permanent paper this fact is often not made known to libraries by notations in the book or by notations in standard bibliographic listings; and

Whereas there is an urgent need to prevent the continuance of the acid paper problem in the future: Now, therefore, be it resolved that;

A NATIONAL POLICY ON PERMANENT PAPERS

Mr. PELL. Mr. President, I am very pleased indeed that the House of Representatives has passed and sent back to the Senate in slightly amended form Senate Joint Resolution 57, my joint resolution to establish a national policy on permanent papers. I urge the Senate to proceed to final passage.

I introduced this measure on February 8, 1989, and was joined by 48 Members of the Senate whose cosponsorship indicated the true depth of concern for this matter, and who thereby helped to achieve passage of the joint resolution by the Senate in July 1989.

Mr. President, this resolution reflects a growing concern about the impending loss of an enormous volume of our historical, cultural and scientific records because of the self-destruction of the acidic papers in which books and other publications have been printed since the mid-nineteenth century.

The resolution declares it to be a policy of the United States that all Federal records, books and publications of enduring value be produced on acid free permanent paper. In furtherance of that objective, the resolution urgently recommends that Federal agencies require the use of such paper for publications of enduring value, and the use of archival quality papers for permanently valuable Federal records.

The resolution urges similar action in the private sector. It urgently recommends that American publishers voluntarily adhere to the American National Standard for permanent paper in printing publications of enduring value, and that the use of such paper be noted in the publication itself, in advertisements and in standard bibliographic listings.

Last, the resolution would urge the compilation of reliable statistics on the production of acid free permanent paper and on the volume required to meet the objectives of the national policy established by the bill. And it would direct the Librarian of Congress and the Archivist of the United States, together with the directors of the national libraries of medicine and agriculture, to monitor progress in implementing the national policy and report annually to Congress.

I particularly wish to emphasize that this resolution mandates no Government program, and should impose no significant costs on the Federal Government. If anything, the resolution could result in a net reduction in costs to the Government because it will have the effect of reducing the long-range costs of deacidification. Every book produced on acid free paper today reduces the total number of volumes requiring deacidification, and frees up preservation resources which can be used to attack the crumbling backlog of publications dating back to 1850.

As vice chairman of the Joint Committee on the Library, I have had the opportunity to review the extensive efforts currently under way to deacidify and preserve existing collections, at a cost of over $100 million to the Federal Government. The Library of Congress, for example, is pioneering in the development of technology for the mass deacidification of its collections through the use of diethylzinc [DEZ]. The present goal is to begin treatment of all the Library's new acquisitions by 1991 and to start retrospective treatment at the same time of existing publications in American history.

The National Archives and Records Administration and the National Library of Medicine are also making vigorous efforts to deal with the problem, either through deacidification or through microfilming books and publications which are already too brittle to save.

Clearly, it makes little sense to continue these costly remedies without attempting to curb the basic problem. And that is what this resolution is designed to do. In a figurative sense, it locks the library door against prospective invasion by publications printed on acidic paper.

I extend thanks to all who have had a hand in promoting the passage of this resolution, and particularly to Robert M. Frase, former director of the Washington office of the Association of American Publishers.

And finally Mr. President, I want to express the hope that the the executive branch will promptly approve this joint resolution and join in this historic effort to preserve the wisdom of today for the readers of centuries to come.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERSTATE COMMISSION ON CHILD SUPPORT ENFORCEMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3117, a bill introduced today by Senator BRADLEY, making technical corrections to the Interstate Commission on Child Support Enforcement.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3117) to reauthorize the Commission on Interstate Child Support, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BRADLEY. Mr. President, I rise today to introduce a bill to make technical adjustments to the Interstate Child Support Commission to bring the Commission into conformance with other such governmental commissions.

This Commission was established as part of the 1988 Family Support Act and its mission is to look for ways to build a better nationwide system to ensure that every child in America receives the financial support that parents are obligated to provide. Better Federal laws and better communication among States, which this Commission can promote, are necessary first steps toward this goal.

This bill has two purposes. First, the bill would extend the authorization dates for the life of the Commission by 1 year to allow the Commission adequate time to accomplish its mission. The initiation of the Commission was delayed following passage of the Family Support Act to accommodate the time needed to make appointments to the Commission. This bill would simply extend the dates for the life of the Commission by 1 year to achieve this purpose. Appropriations and costs for the Commission would not be affected.

Second, in the original drafting of the legislation, authorization was mistakenly omitted to allow the Commission to hire appropriate staff to carry out its mission. This bill would correct this omission and allow the Commission to hire an executive director, as well as other necessary support. This provision is consistent with the original legislative intent regarding the creation of the Commission, as well as with other governmental commissions, such as the National Commission on Children. Again, these technical corrections have no effect on the funds authorized for the Commission to carry out its duties.

A more effective and efficient child support enforcement system will not end all poverty or welfare dependency among children of single-parent households. But it will improve life for those who are impoverished solely because one parent evades the obligations of parenthood and the law. Prompt passage of this bill will ensure that the Commission is fully empowered to accomplish these important goals.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, 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. 3117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMISSION ON INTERSTATE CHILD SUPPORT.

Section 126 of the Family Support Act of 1988 (Public Law 100-485) is amended—

(1) in subsection (d)—

(A) by striking "1990" in paragraph (1) and inserting "1991"; and

(B) by striking "May 1, 1991" in paragraph (2) and inserting "May 1, 1992";

(2) in subsection (e), by adding at the end thereof the following new paragraph:

"(5)(A) Individuals may be appointed to serve the Commission without regard to the provisions of title 5 that govern appointments in the Competitive Service, without regard to the Competitive Service, and without regard to the Classification System in chapter 53 of title 5, United States Code. The Chairman of the Commission may fix the compensation of the Executive Director at a rate that shall not exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

"(B) The Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the Competitive Service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) On the request of the Chairperson of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section without regard to section 3341 of title 5, United States Code."; and

(3) in subsection (f)(1), by striking "July 1, 1991" and inserting "July 1, 1992".

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

The motion to lay on the table was agreed to.

COMMENDING JONATHAN STEINBERG

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 328, a resolution commending Jonathan Steinberg, submitted earlier today by myself, Senator MURKOWSKI, and others.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 328) commending Jonathan R. Steinberg for his faithful and outstanding service to the U.S. Senate and the Nation.

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. CRANSTON. Mr. President, the pending resolution commends Jonathan R. Steinberg for his 21½ years of faithful and outstanding service to the Senate and the Nation. The resolution, which I have authored as the chairman of the Committee on Veterans' Affairs, as well as the assistant majority leader, is cosponsored by the majority leader, Mr. MITCHELL, who is also a committee member; the President pro tempore and former majority leader, Mr. BYRD; the assistant minority leader, Mr. SIMPSON, who is also a committee member; and the ranking minority member, and other members of the Committee on Veterans' Affairs, Mr. MURKOWSKI, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. THURMOND, Mr. SPECTER, and Mr. JEFFORDS.

I originally hired Jon Steinberg in March 1969 to serve as counsel to the Subcommittee on Veterans' Affairs of the then-Committee on Labor and Public Welfare. He has now served on the Senate staff for more than two decades and on September 12 left the Senate and became an associate judge on the U.S. Court of Veterans Appeals, a newly established tribunal consisting of up to seven members. Jon's appointment completes the original, full complement of seven judges.

As Jon leaves the Senate and ascends to his place in the Federal judiciary, I believe it is appropriate for the Senate to express its gratitude for his great work here and to wish him all the best in this new stage of his career.

Mr. President, in over two decades in the U.S. Senate, I have made countless personnel choices. The decision I made in 1969 to hire Jon ranks as one of the very wisest. In the true spirit of public service, he has dedicated his entire career to making this country a better place for all of us, and most especially for veterans and their families. I believe he has succeeded magnificently.

Jon served for 2 years, 1969 and 1970, as counsel to the Subcommittee on Veterans' Affairs. From 1971 to 1973, he was counsel to both the Subcommittee on Railroad Retirement and the Subcommittee on Human Resources, and he continued as counsel of the Subcommittee on Human Resources until 1977.

In 1977, when I had the honor of assuming the chairmanship of the Veterans' Affairs Committee, Jon became the committee's staff director and chief counsel. He remained in that position until 1981, when the Republican Party became the majority party in the Senate and Jon became minority chief counsel and staff director. In 1987, the Democrats once again became the majority party in the Senate and Jon resumed the position of the committee's staff director and chief counsel, a post he held until Tuesday of this week.

When Jon came to work for the Subcommittee on Veterans' Affairs in 1969, the Nation was going through most difficult times. American involvement in the Vietnam war had reached its height, and so had the divisiveness and bitter controversy here at home. Right from the start, Jon and I recognized our challenge. Our job was to make sure that, despite the turmoil over the conflict, the Nation met its obligations to those who had answered its call to arms.

However, we soon learned that the ravages of war were overwhelming the Veterans' Administration's ability to respond to veterans' needs. An overburdened, underfunded VA health care system was unable to provide consistently high-quality care to those who had borne the brunt of the battle. In some facilities, there were deplorable conditions. Subcommittee hearings that Jon put together and staffed and that I chaired portrayed these problems. Those hearings spurred a Life magazine expose of terrible conditions, including the infamous spinal cord injury unit at the Bronx VA hospital that shocked the Nation's conscience.

Mr. President, those disclosures helped to fuel an effort that we and others in the Congress led throughout the 1970's and into the 1980's to expand and improve VA medical services. By 1985, Congress had added over 60,000 full-time employee positions to the VA health care system. Jon deserves much credit for the success we had.

Another fact of life that was impressed on Jon and me early in our careers in this body was that war—and perhaps, for various reasons, the Vietnam war in particular—often has very serious, sometimes long-hidden, psychological consequences for many of those who experience the enormous stress of battle. Throughout the 1970's we worked for the enactment of legislation to establish a program of psychological readjustment counseling and followup mental health services for Vietnam-era veterans. That legislation was enacted in 1979 and the resulting Vet Center Program now operates through 196 community-based Vet Center across the Nation. It has served more than 700,000 veterans over the past decade.

Mr. President, these two major efforts—building up the VA health care system and innovative efforts to meet the mental health care needs of Vietnam veterans—reflect the kind of vision, persistence, and creativity of which Jon is capable. He has always had what it takes to tackle the big jobs. With his energy and talent available to me, I never had to be concerned that we might be taking on too much. The only consideration was whether the need was real and important and an appropriate responsibility of the Federal Government.

Other examples of major achievements to which Jon, in assisting me, contributed very substantially included:

The 1973 Emergency Medical Services Act, and 1976 and 1978 amendments, which created a grant program to develop a nationwide, coordinated system of emergency services—patterned on the battlefield medical evacuation system used in Vietnam—using trained paramedics, radio communications to link them to physicians, designated trauma facilities, and ambulances and helicopters equipped with lifesaving equipment and medications.

The Rehabilitation Act of 1973, which included the first major Federal civil rights protections for persons with disabilities.

The Domestic Volunteer Services Act of 1973, which provided a statutory basis for the ACTION Agency and its domestic volunteer agencies.

The 1974 legislation codifying and improving the veterans' readjustment appointment authority, which provided for noncompetitive Federal employment and training opportunities for educationally disadvantaged Vietnam-era veterans and those with service-connected disabilities.

The 1974 National Arthritis Act, which provided for a national plan for arthritis and otherwise promoted arthritis treatment and research, and the 1985 legislation that established the National Institute of Arthritis and Musculoskeletal and Skin Diseases at the National Institutes of Health.

The establishment of the Legal Services Corporation in 1974, the most significant Federal effort to help meet the legal services needs of low-income persons.

The 1978 legislation establishing the improved pension program for needy wartime veterans and survivors.

Various public laws in the 1970's and 1980's which provided specific eligibility for VA health care to, among others, World War I veterans, veterans who are housebound or in need of aid and attendance, ex-POW's, and veterans exposed to ionizing radiation or agent orange.

The 1980 modernization of VA's Vocational Rehabilitation Program for service-disabled veterans.

Veterans employment measures enacted in 1980 and 1988 which established stable statutory funding formulas for Disabled Veterans Outreach Program specialists and local veterans employment representatives.

The 1984 Baby Doe legislation to protect the rights of seriously disabled infants.

The 1984 legislation establishing the Montgomery GI Bill Program of educational assistance for our All-Volunteer Armed Forces, and the 1987 legislation making the program permanent.

The Department of Veterans Affairs Act of 1988, which elevated VA to Cabinet status.

The Radiation-Exposed Veterans Compensation Act of 1988, which provided compensation for veterans who were exposed to radiation from nuclear detonations and later developed certain cancers.

The 1988 Veterans Judicial Review Act, which established the U.S. Court of Veterans Appeals.

These, of course, are just examples and highlights. There was much, much more. And Jon was never content just to make major achievements. As a talented lawyer and totally dedicated public servant, he always saw to it that the job was done as close to perfect as humanly possible. He has always believed that if you are careless about technical details, you'll also be careless about the substance.

Finally, I want to emphasize the very special way that Jon combined his talent and energy with genuine concern for the individual. Countless individual veterans and other Americans who needed special attention received it because Jon believed they were entitled to his time and efforts. That is exactly the kind of individual I want, and I believe the American people want, to serve on congressional staffs, and we have been fortunate to have received the services of one such individual for 21½ years.

Mr. President, Jon Steinberg has played a major role in the development of every piece of veterans' legis-

lation enacted by the Congress in the last 21 years, as well as many significant measures in other areas on which he has assisted me during this time. But these laws tell only part of the story.

I believe much of Jon's legacy of dedicated service can be found in more personal, human matters as in the revived spirit and sense of well-being of a Vietnam veteran receiving counseling at a Vet Center; in the restored walk of a soldier who lost a leg in combat and has benefited from VA prosthetics research; in the college diploma, earned through the GI bill, proudly displayed on the wall of a veterans' new home, purchased with the help of a VA loan guaranty; in the monthly compensation check received by a soldier disabled in service; in the lifesaving surgery performed at a VA medical center; in the gratitude of a veteran who has had his benefit claim validated by an independent court of law; and in the countless other ways, large and small, he has helped this Nation repay the debt it owes to its veterans.

Mr. President, I feel honored to have had the opportunity to work with Jon Steinberg during the last 21½ years. He has served me, the Committee on Veterans' Affairs, the Senate, and the Nation far beyond the call of duty again and again. But more importantly, he has performed great service to this Nation's 27 million veterans and their families and to all Americans.

I ask that the Senate, through this resolution, express its gratitude to Jon and wish him all the best in his new role as associate judge of the Court of Veterans Appeals.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 328) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 328

Whereas Jonathan R. Steinberg has rendered faithful service to the United States Senate for twenty-one and one-half years, including service as Counsel to the Veterans' Affairs Subcommittee of the Committee on Labor and Public Welfare from 1969 to 1971, Counsel to the Subcommittee on Railroad Retirement of the Committee on Labor and Public Welfare from 1971 to 1973, Counsel to the Special Subcommittee on Human Resources of the Committee on Labor and Public Welfare from 1971 to 1977, Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1977 to 1981, Minority Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1981 to 1987, and Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1987 to 1990;

Whereas Jonathan R. Steinberg discharged the important duties and responsibilities of each of the foregoing positions with great distinction and diligence and with genuine concern for the individual Americans whose lives were affected by his efforts;

Whereas Jonathan R. Steinberg has consistently rendered valuable service to the Senate in the development of legislation to establish, preserve, and improve programs carrying out the Nation's responsibilities to its veterans and their families and has also made great contributions to the development of programs to benefit Americans in all walks of life, including especially persons with disabilities, a wide array of disadvantage and needy individuals, and children;

Whereas Jonathan R. Steinberg helped guide the Committee on Veterans' Affairs through an extraordinarily active, challenging, and productive period of its history, during which it successfully proposed major advances in veterans' benefits and services;

Whereas the loyalty, judgment, creativity, perseverance, and continuing dedication of Jonathan R. Steinberg have earned for him great respect, gratitude, and affection: Now, therefore, be it

Resolved, That the Senate of the United States commends Jonathan R. Steinberg for his faithful and outstanding service to the Senate and the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jonathan R. Steinberg.

Mr. CRANSTON. I move to reconsider the vote and move that that motion be laid on the table.

The motion to lay on the table was agreed to.

DRUNK DRIVING CHILD PROTECTION ACT

Mr. CRANSTON. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 735, S. 2545, a bill to increase the term of imprisonment for offenses involving driving while intoxicated when a minor is in the vehicle.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2545) to amend title 18 of the United States Code, to increase the term of imprisonment for offenses involving driving while intoxicated when a minor is present in the vehicle.

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. BIDEN. Mr. President, today, the Senate will pass the Drunk Driving Child Protection Act of 1990. Simply put, this bill increases the penalties for driving while drunk or drugged when there are minors in the car.

Children are among the most vulnerable victims of the violent crime of drunk driving: According to one study, 56 percent—more than half—of the children killed by drunk drivers were passengers in their own vehicles.

All drunk drivers should have stiff and certain punishment. But when a drunk driver puts a child at risk—who, in most cases, has no chance to refuse to go with the drunk driver—such reckless acts should be punished even more severely.

That's why I introduced the Drunk Driving Child Protection Act of 1990 to increase the penalty for drunk driving whenever a child is in the car. If there is a minor present, this bill would allow a judge to impose an additional 1 year in prison and an extra fine of $1,000 on top of the current punishment for drunk driving.

This bill would attack the problem of drunk driving with children in the car on two fronts. First, it would boost the penalty for drunk driving on Federal lands. There are more than 200,000 miles of roads on Federal land. Second, it would increase the penalty for drunk drivers who are behind the wheels of buses, trains, and other common carriers that operate on our highways.

Drunk and drugged drivers are a danger to our entire society. They not only risk their own lives, but also the lives of countless others. That is why we have enacted tough drunk driving laws in the past several years.

But when they risk the lives of innocent children—who have no choice whether to get in the car with a drunk parent or other adult—the law should be even more severe. A stiffer penalty is a matter of simple justice.

I want to thank Senators STROM THURMOND and JACK DANFORTH—the original cosponsors of this bill—for their efforts. Both Senators have strong anti-drunk-driving records.

Finally, I want to give special recognition to Donette Sims and Norma Mathewson, the president and chief administrator, respectively, of the Delaware Chapter of Mothers Against Drunk Driving.

Donette and Norma have been tireless advocates of efforts to crack down on drunk drivers to protect drunk driving victims. The citizens of Delaware should be proud of their efforts.

Mr. THURMOND. Mr. President, I strongly support this measure. On May 1, 1990, I joined with Senator BIDEN in introducing this bill, the Drunk Driving Child Protection Act of 1990. This important legislation amends Federal law to increase the penalties for those who drive under the influence of drugs or alcohol when a minor is present in the vehicle.

Under current law, drunk driving is punishable under two provisions in the Federal Criminal Code. First, under the Assimilative Crimes Act, crimes that are committed on Federal lands that are not specifically punishable under the Federal Criminal Code, as is the case with drunk driving, are punishable under the State law in which the Federal land is located. In other words, when a Federal judge sentences a person for drunk driving on Federal land, he or she applies the State pen-

alties. The second provision, which was enacted in 1986 and which I introduced, makes it a Federal offense to operate a common carrier, such as a bus or train, while under the influence of alcohol or drugs. Violators may be punished by up to 15 years imprisonment. This bill amends both of these provisions by increasing the terms of imprisonment by 1 additional year, as well as increasing the fines, when a minor is a passenger.

Mr. President, it is clear that no individual should get into a vehicle with an intoxicated person behind the wheel. Fortunately, as adults, we can refuse a ride with a friend or relative who has been drinking. Instead, we can offer to drive the person ourselves or offer that individual a place to stay for the night. Yet, our Nation's children are not always in a position to choose for themselves. They are truly the innocent victims of drunk drivers.

Any person who would get behind the wheel of a car or common carrier while under the influence of drugs or alcohol should certainly be subjected to tough penalties. However, any person who would risk the life of a child passenger should face even tougher penalties.

In closing, the Biden-Thurmond Drunk Driving Child Protection Act of 1990 is strongly supported by Mothers Against Drunk Driving. It will send a signal to those who would would drink and drive with children in their vehicle that such conduct will not be tolerated. These enhanced penalties will deter individuals from recklessly putting the lives of their innocent passengers at risk. This legislation is needed to further limit the risk of harm to our Nation's children.

For these reasons, I urge my colleagues to vote in favor of this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, 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. 2545

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 "Drunk Driving Child Protection Act of 1990."

SEC. 2. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to the provisions of paragraph (2) and for purposes"; and

(2) adding at the end thereof the following:

"(2) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than one year and an additional fine of not more than $1,000, or both, if—

"(A) a non-driving minor was present in the motor vehicle when the offense was committed; and

"(B) the law of the State, territory, possession, or district applicable to the offense does not provide an additional term of imprisonment for an act described in subparagraph (A).".

SEC. 2. COMMON CARRIERS.

Section 324 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whoever"; and

(2) adding at the end thereof the following:

"(b) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such offense shall include an additional term of imprisonment of not more than one year and an additional fine of not more than $1,000, or both, if a non-driving minor was present in the common carrier when the offense was committed.".

Mr. CRANSTON. I move to reconsider the vote and that that motion be laid on the table.

The motion to lay on the table was agreed to.

INDOOR AIR QUALITY ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 566, S. 657, the indoor air quality bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 657) to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors.

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. 2913

Mr. CRANSTON. Mr. President, on behalf of Senator BURDICK, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] for Mr. BURDICK, proposes an amendment numbered 2913.

Mr. CRANSTON. 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 3, line 2/3, delete "environmental tobacco smoke".

On page 5, line 8, strike "establish at" and insert in lieu thereof "develop and coordinate through".

On page 7, line 26, strike "cooperation with" and insert in lieu thereof the following "coordination with other".

On page 8, line 9, insert after "authorized" the following ", subject to the availability of appropriations".

On page 9, line 16, insert at the end thereof the following "protocols,".

On page 9, line 19, insert after "sector" the following ", other governmental entities, and schools and universities".

On page 10, line 10, insert the following: "If the Administrator expects or intends that research pursuant to this subsection will primarily affect worker safety and health, he shall consult with the Assistant Secretary of Occupational Safety and Health and the Director.".

On page 10, line 11, insert after "Administrator" the following ", in coordination with other appropriate Federal agencies,".

On page 10, line 18, strike "both healthy individuals and sensitive populations" and insert in lieu thereof the following "populations both with and without heightened sensitivity".

On page 12, line 22, insert after "of" the following "protocols,".

On page 13, line 6, strike "or other measures" and insert the following ", building design criteria, and management practices".

On page 13, line 18, strike lines 18, 19, and 20.

On page 13, line 21, strike "(17)" and insert "(16)".

On page 13, line 23, strike "(18)" and insert "(17)" and strike "in conjunction with" and insert in lieu thereof the following "principally by".

On page 14, line 9, strike "(19)" and insert "(18)".

On page 14, line 20, strike "(20)" and insert "(19)".

On page 16, line 19, insert after "evaluation" the following "and publication".

On page 24, line 4, insert after "parties" the following ", including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls,".

On page 24, line 19, strike "Panel" and insert in lieu thereof the following "Committee".

On page 24, line 21, strike "and such comments shall be transmitted to Congress in conjunction with the report.".

On page 26, line 13, insert at the end thereof the following "Where the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

On page 27, line 1, insert after "indoor" the following "air".

On page 28, line 23, insert after "Administrator" the following ", in coordination with other Federal agencies,".

On page 29, line 1, insert at the end thereof the following "and workers".

On page 30, line 5, strike "worker" and insert after "public" the following "and worker".

On page 30, line 17, strike "which are known to occur (or which may be expected to occur)" and insert in lieu thereof the following "that may occur or are known to occur".

On page 31, line 12, delete "environmental tobacco smoke".

On page 35, line 15, strike "Indoor Air Panel" and insert in lieu thereof the following "Indoor Air Quality and Total Human Exposure Committee".

On page 35, line 25, insert after "Research," the following "the National Institute for Occupational Safety and Health,".

On page 36, line 2, strike "Board" and insert in lieu thereof the following "Advisory Panel".

On page 36, line 6, strike "consultation with" and insert in lieu thereof the following "coordination with other".

On page 36, line 17, strike "consultation with" and insert in lieu thereof the following "coordination with other".

On page 37, line 6, insert after "Administration" the following "and the National Institute for Occupational Safety and Health".

On page 37, line 8, insert the following "In implementation of response actions pursuant to paragraph (6) of this subsection the Assistant Secretary of Occupational Safety and Health shall consult with representatives of State and local governments and their employees with respect to States where the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.".

On page 37, line 9, insert after "Administrator" the following ", in coordination with other appropriate Federal agencies,".

On page 38, line 13, strike "and private and professional firms" and insert in lieu thereof "private and professional firms, and labor organizations".

On page 38, line 17, strike "and".

On page 38, line 20, insert after "contaminants" the following ";

"(6) identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

"(7) identification of contaminants, or circumstances of contamination, where regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

"(8) identification of contaminants, or circumstances of contamination, where continued reduction of contamination requires development of technology or technological mechanisms; and

"(9) identification of remedies to "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.".

On page 38, line 23, insert after "Administrator" the following: ", in coordination with other appropriate Federal agencies,".

On page 38, line 24, insert after "the" the following: "health effects, and any".

On page 38, line 24, insert after "contaminants" the following: "thought to cause health effects".

On page 39, strike lines 6, 7, 8 and 9.

On page 39, line 10, strike "(5)" and insert in lieu thereof the following: "(4)".

On page 39, line 11, insert at the end thereof the following: "and".

On page 39, line 12, strike "(6)" and insert in lieu thereof the following: "(5)".

On page 39, line 14, strike ";" and insert in lieu thereof the following: "."

On page 39, strike lines 15 through line 2 on page 40.

On page 40, line 16, strike "The Administrator shall include in the response plan a letter and any supporting materials providing the comments of the Council on Indoor Air Quality.".

On page 41, line 18, strike "Administrator of the" and insert in lieu thereof the following: "Assistant Secretary for".

On page 42, line 8, insert after "public" the following: "and worker".

On page 44, line 16, strike "and such comments and any supporting materials shall be included in the plan".

On page 46, line 18, strike "Administrator of the" and insert in lieu thereof the following: "Assistant Secretary for".

On page 46, line 20, insert after "filing" the following: "and responding to".

On page 46, line 23, insert the following: "The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act and executive orders pertaining to health and safety for Federal employees.".

On page 47, line 2, insert at the end thereof the following: "Such listing shall preserve the confidentiality of the individuals making filings under this section.".

On page 47, line 17, insert at the end thereof the following: "After thirty-six months from the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course within twelve months of designation.".

On page 54, line 10, strike "applicants" and insert in lieu thereof the following: "applications".

On page 55, line 10, insert after "groups" the following: ", labor organizations,".

On page 64, line 17, insert after "15." the following: "(a) GENERAL AUTHORITY.—".

On page 64, line 20, insert a new subsection as follows:

"(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health."

On page 65, line 2, strike "." and insert in lieu thereof the following: "and $1,000,000 shall be reserved for implementation of section 6(b) of this Act.".

On page 65, line 23, insert at the end thereof the following new section—

"RADON IN SCHOOLS

"SEC. 17. (a) TITLE.—This section may be cited as the "Radon Testing for Safe Schools Act".

"(b) FINDINGS.—The Congress finds that:

"(1) Exposure to radon gas causes about 20,000 lung cancer deaths each year.

"(2) Radon may be especially hazardous to small children who spend a substantial portion of a day in school buildings.

"(3) Testing for and remediation of elevated levels of radon is relatively simple and inexpensive.

"(4) Studies by the Environmental Protection Agency indicate that 54 per centum of schools tested above have at least one room with elevated levels of radon and that over 20 per centum of all school rooms tested had elevated levels of radon.

"(5) On April 20, 1989, the Administrator of the Environmental Protection Agency issued a national adlvisory recommending that all schools be tested for radon.

"(6) There is a need for improved information on proper methods and procedures for testing and remediation of radon in school buildings.

"(7) There is a need for the Federal Government to provide financial assistance to States and local educational agencies for implementation of measures to reduce elevated levels of radon.

"(c) REQUIREMENT FOR RADON TESTING.—Section 307 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new subsections:

"(c) GUIDELINES.—(1) Within one year of the date of enactment of this subsection, the Administrator shall publish guidelines on testing for and remediating radon in school buildings.

"(2) After the publication of guidelines pursuant to this subsection, testing and remediation carried out pursuant to this section shall be conducted in a manner consistent with such guidelines.

"(3) Any radon testing or remediation of school buildings conducted prior to the publication of guidelines pursuant to this subsection shall be considered to meet the requirements of this section if the testing or remediation is conducted consistent with any interim guidance published by the Administrator or a State where the Administrator determines that such guidelines are substantially consistent with the guidelines published under this subsection.

"(d) REQUIREMENT FOR RADON TESTING.—(1) Within two years after designation by the Administrator of an area as a priority radon area each local educational agency located in whole or in part in such designated area shall conduct tests for radon in each school building owned or operated by the local educational agency.

"(2) The Administrator may extend the schedule for testing for radon pursuant to this subsection to the date two years from the date of publication of testing guidelines pursuant to subsection (c) of this section.

"(3) The Administrator shall, as expeditiously as practicable, designate areas as priority radon areas based on—

"(A) surveys of residences for radon; or

"(B) the survey required by paragraph (4) of subsection (a) of this section; or

"(C) other data, including geological data. The Administrator shall designate areas pursuant to this paragraph no later than September 30, 1991.

"(4) The results of any tests conducted pursuant to this section by a local educational agency shall be available for public review in the administrative offices of the local educational agency during normal business hours. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such results and shall send the results to the Administrator and the agency of the State implementing radon programs.

"(5) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an EPA or equivalent State approved program, as determined by the Administrator and shall use radon measurement devices and methods approved by the radon proficiency program established pursuant to section 305(a)(2) of this title.".

"(d) RADON IN SCHOOLS REMEDIATION GRANT ASSISTANCE.—(1) Section 306(j)(1) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et eq.) is amended by inserting after "1991" the following—"and $15,000,000 for fiscal year 1992".

"(2) Section 306(j) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et

seq.) is amended by adding at the end thereof the following new paragraphs—

"(6) Of funds appropriated pursuant to this subsection in fiscal year 1992, not more than one-third shall be used to implement radon remediation measures for local educational agencies pursuant to paragraphs (11) and (12) of subsection (c) of this section.

"(7) Of funds appropriated pursuant to this subsection in fiscal year 1992, the Administrator may reserve an amount up to 2 per centum or $200,000, whichever is the greater, for the purposes of making grants to local educational agencies for implementation of measures to reduce radon levels: *Provided*, That any local educational agency is prohibited by State law from receiving grant assistance from the State: *Provided further*, That the local educational agency provides not less than 50 per centum of the cost of implementing such measures from non-Federal sources.

"(8) There is authorized to be appropriated for grant assistance under paragraphs (11) and (12) of subsection (c) of this section an amount not to exceed $5,000,000 for each of fiscal year 1993, 1994, 1995, and 1996.

"(3) Section 306(c) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraphs—

"(11) Notwithstanding the limitation in subsection (i)(4), payment, in the form of grants or loans, of costs of implementing remediation measures necessary to prevent levels of radon in school buildings above the appropriate action level identified pursuant to section 303(h)(1) of this title: *Provided*, That such payments are made in consideration of the financial need of the applicant.

"(12) Payment of costs of conducting radon tests required pursuant to section 307(d) of this title: *Provided*, That such payments shall be made only in the case of a local educational agency which received assistance payment to paragraph (11) of this subsection.

"(4) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by striking "and (6)" and inserting in lieu thereof "(6), (11), and (12)".

"(5) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2661 et seq.) is amended by inserting after 'Governments—' the following '(1)' and inserting at the end thereof the following new paragraph—

"(2) Any remediation measures of reducing radon in school buildings implemented pursuant to this section shall be supervised by a person who has been approved pursuant to the proficiency program established pursuant to section 305(a)(2) of this title.".

"(e) DEFINITION.—Section 302 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraph—

"(5) The term 'priority radon area' means an area or region of the United States in which, in the judgment of the Administrator, there is a reasonable likelihood of indoor radon levels above the appropriate action level identified pursuant to section 303(b)(1) of this title.".

"(f) PREEMPTION.—(1) Nothing in this section shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

"(2) Nothing in this section shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

"(3) Nothing in this section shall be construed or interpreted as preempting a State from establishing any liability or more stringent requirements with respect to radon in school buildings within such State.

"(4) Nothing in this section creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(5) It is not the intent of Congress that this subsection or rules, regulations, or orders issued pursuant to this subsection be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this section or rules, regulations, or orders issued pursuant to this section.

On page 2; insert after "SEC. 16 Authorizations" the following new line:

"SEC. 17. Radon in Schools.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2913) was agreed to.

Mr. CRANSTON. I move to reconsider the vote and that the motion be laid on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I rise in strong support of the Indoor Air Quality Act (S. 657).

I introduced this legislation last year, along with Senators CHAFEE, LAUTENBERG, DURENBERGER, BAUCUS, and others to address the significant threats to human health posed by exposure to contaminants in the air indoors.

Most Americans spend up to 90 percent of the day indoors and have a significant exposure to contaminants in the air in homes, schools, workplaces, and other buildings.

Indoor air contaminants include radon, asbestos, volatile organic chemicals, combustion byproducts, environmental tobacco smoke, biological contaminants, and respirable particles.

There is growing evidence that exposure to contaminants in the air indoors is a deadly serious problem.

The Environmental Protection Agency submitted a four-volume report to Congress in August 1989, describing the indoor air quality problem which concludes that, while additional research is needed:

> . . . indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

The report further notes:

> . . . the information available suggests that exposure to indoor air pollutants poses a significant health threat to the domestic population.

The foundation for these conclusions is a series of EPA research projects which, taken together, offer compelling documentation of the serious health threats posed by indoor air contaminants.

In June 1987, the EPA published results of a major, multiyear research effort addressing total exposure to air pollutants. The report states:

> The major finding of this study is the observation that personal and indoor exposures to these toxic and carcinogenic chemicals are nearly always greater—often much greater—than outdoor concentrations. We are led to the conclusion that indoor air in the home and at work far outweighs outdoor air as a route of exposure to these chemicals.

In December of last year, the EPA published the results of studies of environmental priority setting in three regions of the country. The report concludes:

> * * * Risk associated with most environmental problems does not differ much across the (geographic) areas studied. For example, indoor air pollution consistently causes greater health risks than hazardous waste sites whether one is concerned with New England, the Middle Atlantic region, or the Pacific Northwest. Such consistent findings should play an important role in setting national environmental priorities.

The EPA completed a major study of indoor air quality in public buildings in September 1988. The report from this study concluded:

> VOCs (volatile organic chemicals) are ubiquitous indoors * * * About 500 different chemicals were identified in just four buildings. . . Almost every pollutant was at higher levels indoors than out * * *

Some of the health effects of exposure to indoor air contaminants include, lung cancer, reduced heart function, developmental effects, mutagenicity, respiratory illness, and skin and eye irritation.

A single indoor air contaminant, radon gas, is estimated by the EPA to cause about 20,000 lung cancer deaths each year. The EPA report to Congress cites studies estimating that between 1,000 to 5,000 lung cancer deaths each year are due to indoor exposure to six specific volatile organic chemicals. The report also cites studies estimating an additional 2,500 to 5,200 deaths each year from exposure to environmental tobacco smoke.

Illnesses caused by indoor air contaminants take a toll in death, suffering, and discomfort. These illnesses, however, also have a cost to society in the form of increased medical costs, increased sick leave, and declines in worker productivity.

The EPA report to Congress provides a detailed review of the health effects of indoor air contaminants. It places the direct medical costs associated with only a select group of contaminants, at over $1 billion a year.

When the costs of increased sick leave and reduced productivity associ-

ated with these illnesses are considered, costs to society of indoor air pollution climb even higher. The EPA report provides a conservative estimate of lost productivity costs of between $4.4 and $5.4 billion a year.

In summarizing the overall costs of indoor air pollution, the EPA report concludes:

Many costs of indoor air pollution have not been calculated. Nevertheless, because of the large number of people and buildings potentially affected, as well as the wide range of effects for which there is a cost component, it is reasonable to conclude that the aggregate costs of indoor air pollution amount to tens of billion of dollars per year.

The seriousness of indoor air pollution problems is increasingly recognized by public interest groups, labor organizations, and the business community.

In March 1989, a coalition of major public interest groups and some of the Nation's largest insurance companies, issued a national consumer agenda, highlighting seven key public policy issues, including indoor air quality. The report reviews the health threats posed by indoor air pollution, and generally endorses the indoor air quality bill reported by the committee in 1988 (S. 1629). S. 657, introduced in the 100th Congress, which was very similar to S. 1629.

For the past 3 years, I have worked with Senator CHAFEE, Senator LAUTENBERG, and other members of the Environment Committee, to document the health effects and the costs of indoor air contamination, and to develop legislation to reduce exposure to these contaminants.

In April 1987, I chaired hearings of the Subcommittee on Environmental Protection, addressing the health effects of indoor air contaminants. I introduced indoor air quality legislation that summer, and held a hearing on the bill in November. The full Committee on Environment and Public Works reported the indoor air legislation in 1988, but the bill did not come to the Senate floor.

I reintroduced the indoor air quality legislation last year, and Senator LAUTENBERG held a hearing on the bill in his Superfund, Ocean and Water Protection Subcommittee in May of last year.

Witnesses at our hearings in this Congress, and the previous Congress, agreed that exposure to contaminants in the air in workplaces, schools, homes, and other buildings, poses a significant health threat, and that there is a need to develop a comprehensive response to this problem.

Based on hearing testimony and other comments, we revised and improved the bill, and the Committee on Environment and Public Works reported the bill in April of this year.

A key objective of the bill, is to expand and strengthen research of indoor air contaminants. The bill establishes a comprehensive research program for indoor air quality, describes basic research authorities, and creates a grant program for development of indoor air control technology.

The bill calls for programs to reduce indoor air contaminants in various types of buildings. It provides for the development of building technology and management practice bulletins identifying measures to reduce exposure to indoor air contaminants. It establishes training courses for building managers, and calls for a national study of ventilation standards.

The bill establishes health advisories to assess the health risks posed by specific indoor air contaminants at a range of concentrations. This information will help the Federal Government focus its efforts on the most serious contaminants, and avoid duplication of State research and assessment efforts. I want to stress that the bill does not provide for setting enforceable standards for indoor air contaminants.

A key provision of the bill directs the Environmental Protection Agency to develop a national response plan. The plan, which focuses and directs the relevant authorities which exist in current statutes, is intended to identify contaminants of concern and specify actions to reduce exposures. I want to point out that the bill provides no new authority to regulate indoor air contaminants beyond the authorities which already exist in current statutes and regulations.

Another key objective of the bill, is to demonstrate very basic indoor air quality management strategies and assessments at the State level. States have the option of applying for grant assistance to develop programs in this area. States also may apply for grant assistance to respond to specific indoor air contaminants in selected geographic areas of a State.

States have proven to be essential partners in implementing many of our environmental programs. I hope that this provision of the bill will foster an improved understanding of the role of State governments in responding to indoor air quality problems.

The bill also addresses the problem of coordination of indoor air quality activities among Federal agencies. The nature of indoor air pollution problems requires that a wide range of Federal agencies participate in assessment and control efforts. The bill establishes a Council on Indoor Air Quality to oversee the indoor air activities of various Federal agencies.

The bill also expands the authority of the National Institute for Occupational Safety and Health [NIOSH] to conduct assessments of sick buildings. The expanded effort will help develop the most effective measures to identify the causes of sick building syndrome, and the most effective measures to mitigate these problems.

Finally, Mr. President, I want to thank Senator LAUTENBERG and Senator CHAFEE for their excellent work on indoor air quality problems. Both Senators have made substantial and irreplaceable contributions to the development of this legislation.

I also want to thank Senator METZENBAUM for his constructive and timely review of the legislation. The Senator made a number of very useful suggestions concerning the best way to involve other Federal agencies, and to assure that this program is fully coordinated with related occupational safety programs.

I urge all my colleagues to join me in supporting this important legislation. With your support, we can assure that Americans have clean, safe air to breathe indoors as well as outdoors.

Thank you, Mr. President.

Mr. BURDICK. Mr. President, I rise in support of an amendment to the indoor air quality legislation making clarifying and technical changes.

Over the past several weeks, a number of minor changes or clarifications to the bill have been suggested. This amendment includes many of these suggested changes.

The amendment would expand the number of Federal agencies which would work with the Environmental Protection Agency to address indoor air quality problems. The opportunities for involvement and participation of agencies, such as the National Occupational Health and Safety Administration, are increased.

We have included language requested by the Budget Committee, clarifying authorizations.

And, we have made changes to reflect the technical comments of several noted scientists in the indoor air quality field.

The amendment would also address the important problem of exposure of school children to radon gas. The amendment would provide for testing of schools for radon in high risk radon areas. The amendment would also provide for limited financial assistance for radon testing and mitigation.

Mr. President, I urge all my colleagues to support this constructive amendment to the indoor air quality legislation.

Mr. MOYNIHAN. Mr. President, the passage of the Indoor Air Quality Act, S. 657, marks a new step in our efforts to learn how environmental pollutants affect human health. The bill establishes a coordinated Federal research program to determine the seriousness and extent of contamination in the air that we all breathe indoors—the environment in which most of us live and work. The research authorized in the bill, will help fill an important gap in our understanding of human exposure

to pollutants. And we will try to do something about it.

Most of us spend 90 percent of our time indoors. But, we actually know relatively little about the pollution in our indoor environment. Indeed, we have more data about the pollutants impacting the lakes in the Adirondacks, than we have about the contaminants in our homes or public buildings. But the data that we do have, tells us that indoor concentrations of pollutants can often be much higher than the concentrations outdoors. Clearly we need to understand better the concentrations of pollutants in the air that people actually breathe—indoor air.

Over the last two decades, environmental research has repeatedly shown us one fact: we cannot consider an environmental insult to a lake, or a biological species in isolation—we must consider it as part of a larger, interrelated community, the ecosystem, in which that lake or species exists. For humans, the ecosystem includes our homes and workplaces.

We recently debated revisions to the Clean Air Act on this floor. We voted to undertake a major effort to ensure clean and healthy air in the outdoor environment. And rightly so—the outdoor air provides the baseline for many human exposures. But now we must also begin to understand the additional contamination in indoor air, and to learn the impacts of that contamination on human health. We must begin to get the facts.

The bill also authorizes a coordinated Federal effort to develop strategies for reducing indoor contaminants. We must find cost-effective methods that balance our interests in conserving energy with our need for clean indoor air. The bill establishes a program to identify workable solutions, and to disseminate those methods to the public.

Mr. President, I wish to recognize the generous help of Dr. John C. Bailar III, in our work on this bill. During our committee deliberations, we discovered that certain aspects of the risks we were seeking to define were not drafted quite right. Senator SIMPSON felt this strongly, and I concurred. We offered to work with Senator LAUTENBERG, the prime sponsor of the bill, to resolve it, and have now done so. Dr. Bailar aided us with great advice, and his recommendations are included in the committee amendment being offered.

I thank the Chair, and I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise in support of the amendment offered by Senator BURDICK to S. 657, the Indoor Air Quality Act. The amendment includes a new section which contains the version of S. 1697, the Radon Testing for Safe Schools Act, as it was approved by the Senate Subcommittee on Superfund, Ocean and Water Protection on June 28, 1990. It is based on the bill I introduced along with Senator CHAFEE to address the health threat that radon poses in our country's schools.

Mr. President, radon is one of the most serious environmental health risks facing the country today. EPA estimates that as many as 20,000 people die of lung cancer each year from exposure to radon. In September 1988 EPA and the Surgeon General's Office issued a national health advisory urging people to test their homes after survey results showed that one in four homes in 17 States surveyed has elevated radon levels. At the subcommittee's hearing on S. 1697, Assistant Surgeon General Vernon Houk said that the evidence of the health threat posed by radon is the strongest of any environmental contaminant.

In April 1989 EPA completed a pilot survey to measure radon levels in 130 schools across the country. This survey found that one in five classrooms has elevated radon levels and that over half of the schools tested have at least one classroom with elevated radon levels. And Assistant Surgeon General Houk testified at our hearing that radon poses a greater risk to children than to adults. Our Nation's children are needlessly exposed to dangerous radon levels, which may be especially hazardous to their developing lungs.

Fortunately, it is relatively simple and inexpensive to test for and mitigate elevated levels of radon. EPA estimates that the average cost to test a school is roughly $1,000 and that the average mitigation cost is only a few thousand dollars per school. Given these facts, it is inexcusable to simply ignore the threat posed by radon to school children.

The Congress has consistently expressed its concern about radon in schools. Legislation I wrote, which was included in the 1986 Superfund Amendments and Reauthorization Act, requires EPA to "identify the locations in the United States where radon is found in structures where people normally live or work, including educational institutions." And in 1988, the Congress passed legislation introduced by Senator CHAFEE, Senator MITCHELL, myself, and others requiring EPA to conduct a national survey of radon in schools. EPA has begun its national survey of residencies and will soon conduct a more extensive national assessment of radon in schools.

The amendment offered by Senator BURDICK which contains S. 1697, builds on this national effort to identify radon prone areas. It requires schools in priority radon areas designated by EPA to test for radon within 2 years of a designation. EPA would be required to develop guidelines for the testing and remediation of radon in school buildings. And EPA would provide $5 million per year for 5 years to States to assist schools in remediating elevated radon levels.

The amendment will expand our efforts to address the health threat that radon poses to our country's children. Testing and mitigating schools, where children spend hours every day, will significantly reduce their chances of contracting lung cancer. This legislation has been endorsed by the National Education Association, the National Parent-Teacher Association, the Consumer Federation of America, the American Lung Association, and the Coalition for Consumer Health and Safety, a coalition of 20 insurance companies and associations and 16 consumer and health organizations working to improve consumer health and safety.

I urge my colleagues to support the amendment.

Mr. CHAFEE. Mr. President, I am pleased that the Senate has given its approval to the Indoor Air Quality Act of 1990, S. 657. This bill provides for a substantial research and development initiative to uncover harmful pollutants in our indoor environment, and will focus the efforts of the Federal Government to address this problem.

Over the last decade we have made considerable progress in abating some of the most harmful pollutants of our outdoor environment. Emissions from cars are no longer as injurious to the air quality and, if we are successful in reauthorizing the Clean Air Act, auto emissions will be reduced even more. Leaded gasoline, known to cause health effects in children, is being phased out. Once unsightly rivers are now returning to a state where they are fishable and swimmable.

Yet for all this progress, we have not turned our attention to the environment where Americans spend an average of 90 percent of their time indoors. Much is known about the effects of some indoor contaminants, such as radon, asbestos, and tobacco smoke. However, there are several other contaminants prevalent in the indoor environment about which very little is known. These include formaldehyde, volatile organic chemicals, combustion byproducts, and respirable particles. There is a great likelihood that these pollutants pose a serious threat to public health.

The threat from these chemicals may be heightened by the fact that many of us live and work in virtually airtight buildings. Soaring energy costs over the past two decades spurred conservation efforts which led to the construction of office buildings in which you cannot open the windows. These well-insulated, energy efficient buildings often seal in potentially hazardous substances while reducing the amount of fresh air.

To date, relatively little attention has been given to the quality and potential health effects of the air inside our homes and offices. But there is mounting evidence that the air we breathe indoors may be at least as polluted with cigarette smoke, radioactive radon gas, and formaldehyde as the smog outside.

In a significant development, EPA now concludes that the risk to human health from indoor air contaminants may be at least as great as those from the outdoor environment. In a recent report, EPA notes that:

Sufficient evidence exists to conclude that indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

This statement represents a major step forward in the agency's thinking about what needs to be done to address indoor air pollution.

One of the most ubiquitous forms of indoor air pollution is environmental tobacco smoke. With over 54 million smokers in the United States, cigarette fumes will undoubtedly rank as one of the most significant sources of indoor air pollution. Passive smoking may be associated with a wide range of health problems, including increased risk for respiratory illnesses, lung cancer, and heart disease. It is estimated by the Surgeon General that up to 5,000 nonsmokers may die each year from lung cancer caused by inhaling other people's smoke.

At a hearing on the health effects of indoor air pollution before the Committee on Environment and Public Works, it became painfully clear that there is not an adequate effort by Federal agencies or States to conduct research on indoor air contaminants. The legislation being approved today, introduced by Senator MITCHELL, myself, and others, will direct the various agencies responsible for indoor air quality to coordinate their response plans to address these contaminants. The bill will place the Environmental Protection Agency squarely in the lead in developing the Federal response to indoor air contamination.

Let me describe the key elements of this legislation.

First, the bill establishes a research program for indoor air. This is undoubtedly an appropriate Federal role, to identify the risk posed by our indoor environment. Information learned from this research must be shared with the States and the private sector.

Second, the legislation will require EPA to establish health advisories. These advisories must be written in plain English, and must make it clear to the average citizen how he can best minimize exposure and adverse health effects from indoor contaminants.

Third, the measure also provides for limited grant assistance to States for development of management strategies and response programs.

Fourth, the bill will authorize the National Institute of Occupational Safety and Health [NIOSH] to conduct assessments of sick buildings. Estimates of lost worker productivity due to symptoms attributable to sick buildings is in the billions of dollars.

Also, I have added a provision to the legislation requiring EPA to conduct an assessment of the seriousness and extent of indoor air contamination in schools. As with radon, children may be at greater risk from harmful chemicals due to a higher respiratory rate, and the fact that their internal organs are still developing.

A related amendment will prevent the exposure of thousands of our schoolchildren to dangerous levels of radon gas. This provision requires schools located in radon high-risk areas to test for radon. These high risk areas are being identified by EPA pursuant to the radon bill which I and other members of this committee authored in the last Congress.

The legislation further provides a loan and/or grant program of $5 million for each of 5 years for schools which need to mitigate radon, and need financial assistance to do so. Although some mitigation work can be costly, most mitigation consists of adjustments to ventilation, installation of fans, and depressurizing and sealing a foundation. These techniques do not usually cost a great deal.

It is important that we take steps to protect our children from radon gas, which could be claiming as many as 20,000 lives per year. Radon has been identified by the Environmental Protection Agency as the largest single course of lung cancer other than smoking.

I would like to make it clear that this legislation does not place the Federal Government in the living rooms of Americans. The bill does not provide authority to regulate indoor air contaminants, but rather takes an informational approach. The health advisories, for example, will indicate the health risks at various concentration levels, and inform homeowners of ways to reduce and minimize the risk from various contaminants.

The best defense we have against an unhealthy indoor environment is an informed consumer. For example, homeowners need to be made aware of the health risks associated with using certain pesticides in the home. If this information can be communicated effectively, the marketplace will send a strong signal to pesticide manufacturers. Consumers demand safe pesticides for home use. The same can be true for cleaning solvents, furniture stripper, and a host of other chemicals which we bring into our home.

Americans need to know how to ensure that the quality of the air inside their home and office is healthy. We must begin to address the health threat posed by contaminants of the air indoors. Passage of this legislation is a major step in this direction.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The committee amendment 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.

(The text of S. 657 as passed by the Senate will appear in a future edition of the RECORD.)

Mr. CRANSTON. I move to reconsider the vote and that that motion be laid on the table.

The motion to lay on the table was agreed to.

PHYSICIANS COMPARABILITY ALLOWANCES REAUTHORIZATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 2588, a bill to provide for an extension of the physicians' comparability allowance, that the Senate proceed to its immediate consideration.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2588) to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.

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. STEVENS. Mr. President, last May I introduced S. 2588, a bill which reauthorizes the Physicians Comparability Allowances Act for 3 more years, through September 30, 1993. Representative SILVIO CONTE of Massachusetts introduced a bill in the House of Representative that would also reauthorize this act for 3 more years.

The Federal Physicians Comparability Allowance Act of 1978 allowed the heads of executive agencies and departments to offer service agreements to certain categories of Government doctors and dentists in order to alleviate recruitment and retention problems. The act was reauthorized in 1979, 1981, 1983, and most recently, in 1987. Unless reauthorized, the author-

ity for the program will expire on September 30, 1990.

The physicians comparability allowance is used by agencies which are experiencing significant recruitment and retention problems. Currently, payments may not exceed $14,000 per year if the physician has served for 24 months or less as a Government physician at the time the agreement was made or $20,000 per year if the physician has more than 24 months of service.

Agencies employing physicians have reported to OPM that this program is instrumental in improving their ability to recruit much needed physicians. Agencies have also reported reduced physician turnover rates since the enactment of this program.

The continuation of the Physicians Comparability Allowance Act is necessary so that we may continue to attract and retain the best physicians to the Federal Government. The physician labor market is a segmented one—each Federal agency actually competes with a different sector of the physician labor market. For example, FDA recruits many of its doctors from primary care physicians, while NIH recruits more from academic specialties.

It should be noted that the act was not intended to provide 100 percent comparability with nongovernmental physician salaries. But, as we all know, there is a tremendous pay disparity between certain positions in the Federal sector and certain positions in the private sector. The average pay received by physicians in 1989, as reported by the American Association of Medical Colleges, was $136,900—while the average Federal physician receiving an allowance was paid $82,290 during fiscal year 1989.

We all know the benefit to the public from recruiting and retaining qualified and competent physicians. These physicians perform vital functions throughout the public health service, including the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, the Centers for Disease Control, and the Food and Drug Administration.

The best solution to attract and retain physicians to the Federal Government is to reform the Federal pay system to adequately compensate all Federal employees and to enable Federal departments and agencies to compete effectively for talented candidates. Senator JOHN GLENN, chairman of the Senate Government Affairs Committee, has been working hard to do just that.

Senator GLENN's comprehensive pay reform measure was recently adopted in the form of an amendment to the Treasury-Postal appropriations bill. This proposal would provide comprehensive reform of the Federal pay structure, including physicians salaries. However, until such reform is fully enacted, the need to retain quality medical personnel in the Federal Government persists.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, 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. 2588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5948(d) of title 5, United States Code, is amended by striking out the second sentence and inserting in lieu thereof "No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995.".

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

The motion to lay on the table was agreed to.

URANIUM ENRICHMENT ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 837, S. 2415, a bill to encourage solar and geothermal power production.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2415) to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

TITLE I

SEC. 110. SHORT TITLE.—This title may be cited as the "Uranium Enrichment Act of 1990".

SEC. 111. DELETION OF SECTION 161 v.—Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

a. inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION:

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

"(1) to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"(3) to market and sell enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) qualified domestic and foreign persons;

"(4) to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"(5) to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"(6) to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"(7) to maintain a reliable and economical domestic source of enrichment services;

"(8) to conduct its activities in a manner consistent with the health and safety of the public;

"(9) to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"(10) to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWER AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: Provided, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed,

tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute: Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS, AND REGULATIONS:

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts, and the December 18, 1987, settlement agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR:

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation: Provided, however, That upon enactment of this title, the President shall appoint in existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503(c), except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility:

"a. (1) The specific responsibilities of the Corporate Board shall be to—

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"b. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers, and memoranda of, or in use by, the Corporation.

"c. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and up to ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504(a). The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504(a) during their term of employment, regardless of any recommendations received or not received under this title.

"d. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"e. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurance of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"f. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"g. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"h. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"i. (1) The Corporate Board shall report at least annually to the Administrator on the

performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States:

"a. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: Provided, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503(c) and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"b. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"c. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"d. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"e. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"f. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: Provided, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: Provided further, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: Provided, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical in-

formation owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION:

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to date of transfer. The Secretary of the Treasury shall hold such stock for the United States: Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States of uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING:

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidential thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding convenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING:

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials, and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: Provided, however, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505(a) at any time. Such costs shall be based on the point in time that

such decommissioning, decontamination and remedial action are to be undertaken and accomplished: Provided, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS:

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION:

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS:

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152, 153b. (1), and 158 of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under section 181 of title 35, United States Code, through 187.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and

recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING:

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES:

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed to make payments to State and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities, and income of the Corporation. All property of the Corporation its activities and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts and such income shall not be exempt from taxation.

"b. The Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: Provided, however, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) In no event shall the payment made to any taxing authority for any period be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: Provided, That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I:

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 110 a., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230, and ±232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS:

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12-27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT:

"a. Three years after enactment of this title or January, 1993, whichever is later, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT:

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402 (j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection (b)(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress or the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS:

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 114. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end of the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended:

(1) By adding before the period at the end of the definition of the term "production facility" in section 11 v. a colon and the following: "Provided, however, That as the term is used in chapters 10 and 16 of this Act, other than with respect to export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235";

(2) By striking the period at the end of section 161 b. and adding the following: "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;";

(3) By striking the phrase "section 103 or 104" in section 41 a. (2) and inserting in lieu thereof "this title"; and

(4) In section 236 by striking the word "or" following paragraph (2) and adding after paragraph (3) "or (4) any uranium enrichment facility licensed by the Commission;".

(5) In section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of title II, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

SEC. 115. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 116. SEVERABILITY.—In any provision of this title, or the application of any provisions to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this act, or the application of the same shall not be thereby affected.

SEC. 117. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this act; Provided, however, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501(a) of the Atomic Energy Act of 1954, as amended by this Act and previous Acts.

TITLE II—URANIUM

Subtitle A—Short Title, Findings and Purpose, Definitions

This title may be cited as the "Uranium Security and Tailings Reclamation Act of 1989".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds for purposes of this title that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners of licensees of active uranium and thorium sites and the Federal Government have each benefited from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of subtitles B and C of this title to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Subtitle B—Uranium Revitalization

SEC. 210. VOLUNTARY OVERFEEL PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1991, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be retricted to military purposes and Government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium; Provided, however, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: Provided, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this title.

Subtitle C—Remedial Action for Active Processing Sites

SEC. 220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an

amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this title and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B), and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 220.

SEC. 222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this subtitle not more than $300,000,000 increased annually as provided in section 220 based upon an inflation index as determined by the Secretary.

TITLE III—REMOVAL OF PURPA SIZE LIMITATIONS

SEC. 301. This title may be cited as 'The Solar Wind, Waste, and Geothermal Power Production Incentives Act of 1990'.

SEC. 302. PURPA AMENDMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended as follows:

(a) In subsection (a), strike out ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity,".

(b) In subsection (e)(2), insert '(other than a qualifying small power production facility which is a solar, wind, waste or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)' after 'facility' where it first appears, and by striking out ", or 80 megawatts for a qualifying small power production facility using geothermal energy as its primary energy source,".

SEC. 303. FEDERAL POWER ACT AMENDMENTS.—(a) Section 3(17)(A) of the Federal Power Act is amended by inserting 'a facility which is a solar, wind, waste or geothermal facility, or' after 'small power production facility' means.

(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"'(E) "eligible solar, wind, waste or geothermal facility" means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources;".

SEC. 304. FERC REGULATIONS.—(a) Within 30 days of the date of enactment of this Act, the Federal Energy Regulatory Commission shall issue such proposed modification to its regulations as may be necessary to implement the amendments made by this Act, and within 90 days of such date, the Commission shall issue final regulations.

(b) Until regulations described in subsection (a) are final and effective, any solar, wind, waste or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act), which is a qualifying small power production facility as defined in subparagraph (C) of section 3(17) of the Federal Power Act (as such section 3(17) is amended by this Act), (1) shall be considered a qualifying small power production facility under part 292 of title 18 of the Code of Federal Regulations, notwithstanding any size limitations contained in such part, and (2) shall not be subject to the size limitations contained in section 292.601(b) of such part.

(c) The provisions of this Act shall apply to a solar, wind, waste or geothermal facility only if—

(1) either of the following is submitted to the Federal Energy Regulatory Commission during the two-year period beginning on the date of enactment of this Act:

(A) an application for certification of the facility as a qualifying small power production facility; or

(B) notice that the facility meets the requirements for qualification; and

(2) construction of such facility commences within five years of the date of such application or notice and reasonable diligence is exercised toward the completion of such facility taking into account all factors relevant to the construction of the facility.

AMENDMENT NO. 2914

(Purpose: To remove the regulatory barriers for solar, wind, waste and geothermal electric energy generation contained in the Public Utility Regulatory Policies Act of 1978)

Mr. CRANSTON. I send to the desk an amendment, on behalf of Senator DOMENICI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for Mr. DOMENICI, proposes an amendment numbered 2914.

Mr. CRANSTON. Mr. President, I asked unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike title III, and insert in lieu thereof the following:

"TITLE III—REMOVAL OF PURPA SIZE LIMITATIONS

"SEC. 301. This Title may be cited as "The Solar, Wind, Waste and Geothermal Power Production Incentives Act of 1990.

"SEC. 302 PURPA AMENDMENT.—Section 210(e)(2) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting "(other than a qualifying small power production facility which is an eligible solar, wind, waste or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears.

"SEC. 303. FEDERAL POWER ACT AMENDMENTS.—(a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is an eligible solar, wind, waste or geothermal facility, or" after "small power production facility' means".

"(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"(E) 'eligible solar, wind, waste or geothermal facility' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources, and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii) of this section 3(17); but only if—

"(i) either of the following is submitted to the Commission not later than December 31, 1992:

"(I) an application for certification of the facility as a qualifying small power production facility; or

"(II) notice that the facility meets the requirements for qualification; and

"(ii) construction of such facility commences not later than December 31, 1997 or, if not, reasonable diligence is exercised towards the completion of such facility taking into account all factors relevant to construction of the facility.".

"SEC. 304. FERC REGULATIONS.—Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after the enactment of this Act, any eligible solar, wind, waste or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this Act)—

"(a) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

"(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.".

Mr. DOMENICI. Mr. President, the purpose of the amendment now pending before the Senate is to correct a technical drafting problem with the PURPA provisions of S. 2415, as reported by the committee; it is not intended to make any substantive policy changes to the bill. With the exception of uranium enrichment provisions, S. 2415, as reported, is identical to the PURPA provisions contained in the global warming legislation, S. 324.

S. 2415, as reported by the committee, now contains two elements: one, the removal of PURPA's size limitations on solar, wind, waste, and geothermal powerplants; and two, the uranium enrichment provisions of S. 83.

S. 83 was passed by the Senate on July 20, 1989, but it has not been acted on in the House of Representatives. It was added to S. 2415 in committee at the request of Senator FORD but, in my opinion, without any real expectation that it would be acted on by the House in the context of this legislation. Instead, it is intended to serve as a reminder notice to the House committees of jurisdication that the Senate remains very interested in proceeding with S. 83. Laying the uranium enrichment provisions aside, let me now turn to the pending amendment.

The amendment now ending before the Senate is similar to S. 2415, which I introduced and is presently cosponsored by Senators MCCLURE, WIRTH, REID, MCCAIN, BRYAN, CRANSTON, WILSON, HATFIELD, SYMMS, HARKIN, DECONCINI, PACKWOOD, ADAMS, MIKULSKI, SHELBY, HOLLINGS, HATCH, JEFFORDS, SANFORD, GARN, LIEBERMAN, MURKOWSKI, DASCHLE, ROBB, AKAKA, MITCHELL, and BOSCHWITZ.

The difference between the pending amendment and S. 2415, as introduced, is that the amendment encompasses wind power and waste energy and it contains both a 2-year sunset provision with a diligence provision, whereas S. 2415 does not contain those elements.

The wind provision was added at the request of Senator HATFIELD and other Senators, and I strongly support this addition. Both the waste provision and the 2-year sunset provision were added by Senator JOHNSTON, and I must note that I do not favor either. These provisions raise concerns by certain parties, and I fear that they may jeopardize enactment of this bill into law. The diligence provision was added by Senator MCCLURE only to insure that Senator JOHNSTON's sunset provision actually worked. And as I noted before, the differences between the PURPA provisions in S. 2415, as reported, and the pending amendment are only technical in nature.

Mr. President, let me now discuss the merits of the PURPA amendments made by the pending amendment.

In a hearing before the Committee on Energy and Natural Resources, the administration testified in support of the changes in law that my amendment proposes to make. The lifting of the PURPA size limitations for solar, wind, and geothermal power is also supported by Public Citizen, by the National Association of State Energy Officials, and by the electricity committee of the National Association of Regulatory Utility Commissioners. I ask unanimous consent that letters and resolutions from these groups be included in the RECORD at the conclusion of my statement.

Mr. President, before I explain why it is in the public interest to eliminate PURPA's size restrictions on solar, wind, and geothermal powerplants, I will briefly summarize the underlying law my amendment proposes to change.

PURPA was enacted in 1978 as one of the five parts of President Carter's national energy plan to address our energy crisis. One key goal of PURPA was to expand our supply of electricity, which it did by encouraging the construction of nonconventional power generating facilities by companies other than traditional electric utilities.

In the vernacular of PURPA, these nonconventional electric powerplants are known as "qualified facilities" or "QF's." A QF can be a solar, geothermal, wind, or other renewable energy-based electrical generating facility. A QF can also be a fossil fuel-fired cogeneration facility, which is a type of powerplant that produces and sells steam heat as well as electricity. In its regulations FERC defined municipal solid waste as biomass, and not as waste.

PURPA encourages the construction of QF powerplants by giving them enhanced regulatory treatment: QF's are exempted from the Public Utility Holding Company Act, the Federal Power Act, and from regulation as a local electric utility; and QF's are given the right to connect into the local utility's power grid and the right to sell their power to the utility at avoided cost.

Without this regulatory treatment, these powerplants would be caught in a regulatory tangle and could not be built; and even if built, traditional electric utilities could refuse to purchase the electricity produced by a QF powerplant. In other words, without PURPA, nonconventional powerplants could not exist.

One provision of PURPA—which is the focus of the pending amendment—places a size limitation on renewable-based QF powerplants. Under this provision, solar, wind, and other renewable QF's cannot be built larger than 30 megawatts without losing their PURPA benefits, and geothermal facilities cannot be built larger than 80 megawatts.

Curiously, however, PURPA has no similar size limitation on fossil fuel-fired cogeneration facilities, which account for three-fourths of QF capacity; they can be built to any size without the loss of their PURPA benefits. And while cogeneration facilities are typically built in the 100- to 500-megawatt size range, earlier this year the largest cogeneration facility ever—a 1,240 megawatt powerplant—went into operation in Michigan. That is the size of a major baseload nuclear or coal-fired powerplant.

Now compare PURPA's 30-megawatt limitation for solar and wind facilities and its 80-megawatt limitation for geothermal facilities to the size of the Michigan cogeneration facility—some 15 to 40 times larger—and you will see one key reason for this amendment.

One question relevant to this debate is why did Congress originally impose a size limitation on solar, wind, and geothermal facilities but not on fossil fuel-fired cogeneration facilities?

I was on the Energy and Natural Resources Committee back then and, quite frankly, I cannot recall the reason; nor can anyone else. My guess is that when we were writing PURPA someone felt that it was a good idea, and so it was done. But who and why—your guess is as good as mine.

But laying that historical question aside, whatever public policy reasons Congress had back then, there is no valid reason today for these size limitations. On that there is no disagreement.

Mr. President, if we remove PURPA's size limitations for solar, wind, and geothermal facilities we can enhance our supply of electrical power, and that is clearly in the public interest.

Since 1978, nearly 5,000 megawatts of new solar, wind, and geothermal power have already obtained QF status. That is the equivalent of five traditional baseload nuclear or fossil fuel-fired powerplants. Now, while that may already seem like a lot, much more can be done—and will be done if we adopt this amendment.

Over the past decade, there has been a technological revolution which not only makes larger sized solar, wind, and geothermal projects possible, it also makes them far more efficient, which lowers the cost of power production.

Solar technology, for example, has evolved rapidly since the first utility-scale electric generating facility was placed in service back in 1984. Nearly 300 megawatts of solar thermal capacity have since been put into operation, and these plants have won high praise for both their design and reliability from the utility which purchases the power.

Geothermal technology has similarly demonstrated both cost effectiveness and reliability. Over 2,000 megawatts of geothermal generating capacity are currently in service in the United States.

And wind energy is likewise taking off. There are now about 14,000 wind turbines in operation, which now satisfy about 1 percent of California's electricity demand.

More can be done, but only if these renewable powerplants are allowed to remain price competitive through economies of scale, which the pending amendment would make possible.

There already have been dramatic improvements in efficiency which have significantly lowered the cost of production. For example, solar facilities built in 1984 generate electricity

at a lifecycle cost of 24 cents per kilowatt hour. In contrast, the most recently built solar powerplant, an 80-megawatt facility placed in service at the end of 1989, has a lifecycle cost of only 8 cents per kilowatt hour. And larger, more efficient, solar facilities could be put on line at a production cost of 6 cents per kilowatt hour.

But this cannot occur unless PURPA's size limitations are removed, and that brings me back to my amendment, which I will now explain.

Mr. President, the amendment before the Senate is really very simple: It removes PURPA's size limitations for solar, geothermal, and wind facilities. Nothing more.

Another way of looking at this amendment is that it gives solar, wind, and geothermal QF's the same PURPA treatment as PURPA now gives to fossil fuel-fired cogenerators. On its face that is only equitable.

As modest as this change may seem, without it, solar, wind, and geothermal powerplants will not have a place in the future wholesale power supply market where competition is increasingly intense. They need to be able to reduce the cost of production, for which economies of scale are critical; and that cannot occur unless this amendment is adopted.

Now some will assert that lifting these limitations will harm ratepayers because there is a requirement in PURPA that electric utilities purchase QF power at what is known as "full avoided cost." But it should be noted that neither PURPA, nor the Federal regulations implementing PURPA, require State public utility commissions to force their electric utilities to pay more for QF power than it is worth. PURPA's implementation, including the setting of the avoided cost purchase rate for QF power, is left to State commissions, which are given broad discretion.

In the first few years following PURPA's enactment, there is no question that a number of State commissions overshot the mark. But over the past decade, State commissions have become far more expert in projecting and planning to meet future power needs, and that translates into more realistic numbers for avoided cost. As a consequence, State commissions have modified their implementing regulations to keep their rates in line, including the use of competitive bidding.

Thus, while the avoided cost rate may have once been a controversial matter, it no longer is. Nothing here, nor anything in PURPA, requires or even endorses a State public utility commission's requiring electric utilities in its State to purchase power from QF's at rates that exceed the utility's full avoided cost. So, I find it hard to accept the argument made by some that if we remove the PURPA size limitations on solar, wind, and geothermal facilities, as this amendment proposes to do, ratepayers will be harmed.

Mr. President, let me take a moment to put this legislation into a broader context. There is little question that our Nation has an increasingly serious energy problem. Each day our foreign energy dependence increases, and no end is in sight. Back in 1973, the year of the Arab oil embargo, we were about 36 percent foreign oil dependent; last year we were 46 percent foreign dependent; and so far this year we have inched up to 50 percent dependency. By almost every estimate, in just a few more years we will be two-thirds foreign dependent. And hardly a week goes by without reading one report or another that says that we are stretching our existing power production resources to their limit, and that we are increasingly needing to build new powerplants.

That trend not only has significant implications for the future price and reliability of our energy supplies, it also has broader economic, military, and geopolitical implications. Let us not forget that not too long ago the United States had naval warships in the Persian Gulf escorting Kuwait oil tankers against the threat of attack—protection which was provided at a time when only a tiny fraction of the United States oil came directly from that region. Now, with the ongoing invasion of Kuwait by Iraq, we have the very real prospect of an international oil supply interruption of the size that sent prices soaring back in 1973 and 1979 and caused us to sit in long gasoline lines waiting to fill up our cars.

Mr. President, in terms of our national energy policy, it is important that we take reasonable steps to encourage a wide variety of options to help meet this Nation's future energy needs. We will never find a single or simple answer, but incremental steps to promote a domestic energy production are very important and must be taken.

This legislation will take one such step, and it will help. For example, over its life each 80 megawatts of solar, wind, or geothermal generating capacity backs out the equivalent of 14 million barrels of foreign oil.

Mr. President, this is not the first time the Congress has addressed the PURPA size issue. Since its enactment in 1978, twice it has been necessary to raise PURPA's size restrictions to reflect the increased capabilities of maturing technologies. PURPA was amended in 1980 to increase from 30 to 80 megawatts the size limitation for geothermal facilities. Three years ago there was legislation enacted to temporarily lift the size limitation on solar facilities to 80 megawatts. And our exchange with these changes have been only positive; new, more efficient facilities has been put on line at lower prices to consumers.

It is also worth noting that this amendment will complement the ongoing congressional efforts in the global warming bill and the Clean Air Act amendments to reduce emissions and clean up the environment. Solar facilities have minor emissions only when they burn natural gas as a backup source of energy; wind-driven generators have absolutely no emissions of any sort; and geothermal facilities have no combustion-related emissions.

In summary, it is clear that PURPA's size limitations on solar, wind, and geothermal powerplants are no longer necessary, appropriate or in the public interest. It is also clear that these limitations unduly burden technological development. It is evident that their removal will bring forth lower-cost and environmentally benign electrical generating capacity. And it is without question that encouraging this kind of new generation capacity will help our national energy security.

Simply put, enactment of this amendment is good public policy.

As a Senator from the sunny Southwest, I look forward to the day when my region will more fully utilize its abundant solar resources to generate electricity.

Let me now make a couple of comments about the appropriate interpretation of the amendment. First, nothing in this amendment may be interpreted as overriding or abrogating any existing contract between a QF and the utility who purchases power from it. Second, nothing shall limit FERC's authority to amend its existing regulations, in accordance with normal procedures, so as to reflect the statutory changes made by this amendment. Third, the amendment's diligence phrase "reasonable diligence is exercised toward the completion of such facility taking into account all factors relevant to construction of the facility" is intended to ensure that the sunset provision works in practice.

It does so by preventing the filing of "dummy" applications or certifications with FERC—new Federal Power Act section (3)(17)(E)(i). Thus, the phrase "reasonable diligence" is to be interpreted broadly. For example, any substantial expenditure of moneys or any irrevocable commitment for substantial expenditure of moneys, be it for the acquisition of required permits or other authorizations necessary to construct a facility or for the purchase of necessary equipment or engineering or construction costs, would also satisfy the requirement. As another example, because in the case of a geothermal facility subtantial capital expenditures must be made at the time a commitment is made to drill a geothermal well, both the commencement of construction requirement and the due dili-

gence requirement would be satisfied when the spudding of the well occurs.

Mr. President, in conclusion, it is for these reasons that I introduced this legislation; that is why I support it; and that is why I am urging the Senate to adopt this amendment.

Mr. President, I ask unanimous consent that letters dated May 10, 1990, and July 5, 1990, and a resolution adopted July 25, 1990, be printed at this point in the RECORD.

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

PUBLIC CITIZEN,
Washington, DC, May 10, 1990.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: We are writing to support S. 2415 which you have introduced to remove the size limits imposed by the Public Utility Regulatory Policies Act (PURPA) for solar and geothermal power facilities. In addition, we urge you to expand your proposal to include wind energy power plants.

In a May 1989 Public Citizen report, "Power Surge: The Status and Near-Term Potential of Renewable Energy Technologies (copy enclosed), we made this same policy recommendation as one that would allow more rapid development of renewable energy. There is no public benefit gained by restricting the size of renewable energy projects that can qualify under PURPA, nor is there a need to restrict the regulatory exemptions afforded by PURPA to renewable energy facilities of certain sizes.

Renewable energy projects should be treated in the same manner as cogenerators are under PURPA, allowing them to be developed in sizes that relate to resource, market, and other relevant considerations rather than to artificial size restrictions now imposed by PURPA. This will allow renewable energy technologies to be developed in a more cost-effective manner.

We would not be opposed to lifting the size limits under PURPA for all renewable energy technologies. At a minimum, however, we believe that wind should be included in your proposal since the same rationale for removing the size restrictions on solar and geothermal facilities applies to wind projects as well. Optimal project sizes for all of these technologies are encumbered under current law.

We applaud you for sponsoring this much needed legislation, and urge you to expand it include wind energy.

Sincerely,

NANCY RADER,
Energy Policy Analyst,
Critical Mass Energy Project.

P.S.—As you may know, Public Citizen is a research and advocacy organization founded by Ralph Nader in 1971 to address a broad range of consumer and environmental issues. Critical Mass is Public Citizen's energy policy arm.

NATIONAL ASSOCIATION
OF STATE ENERGY OFFICIALS,
Washington, DC, July 5, 1990.

Re Solar and Geothermal Power Production Incentives Act (S. 2415).

Hon. PETE V. DOMENICI,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the National Association of State Energy Officials (NASEO), I wanted to take this opportunity to express our strong support of S. 2415, which you introduced on April 4, 1990. This bill would increase the size of solar (above 30 MW) and geothermal (above 80 MW) power plants that qualify for Qualifying Facility benefits under PURPA.

Hopefully, the passage by the House Energy and Commerce Committee of H.R. 4808, introduced by Mr. Sharp, will encourage the Senate to act on your legislation. We also support the expansion of the bill to cover wind power.

NASEO is composed of energy officials from 49 states, territories and the District of Columbia and we are dedicated to promotion of a balanced national energy policy which enhances energy security, environmental stability and economic development within our states. The states have long supported promotion of renewable energy and we see it as a necessary part of our future national energy supply. This support has included state funding, tax credits and rebates, use of oil overcharge refunds and use of the federally-supported State Energy Conservation Program (SECP) and the Energy Extension Service (EES) to implement renewable energy programs. With oil imports again crossing the 50% mark, concerns over global climate change and the expected passage of Clean Air Act amendments this year, renewable energy and energy efficiency programs have become even more important.

NASEO strongly supports your legislation and we urge rapid consideration and passage.

Sincerely,

MITCH BEAVER,
Chairman.

RESOLUTION SUPPORTING LEGISLATION TO LIFT SIZE RESTRICTIONS ON SOLAR, GEOTHERMAL, AND WIND ENERGY PROJECTS

Whereas, Legislation has been introduced in the Congress that lifts the megawatt restrictions under the Public Utility Regulatory Policies Act (PURPA) for qualifying facilities; and

Whereas, This legislation applies to qualifying solar, geothermal and wind energy projects; and

Whereas, This legislation would make these renewable energy technologies more cost effective and would not alter existing State commission authority under PURPA to regulate facilities that use these technologies; now, therefore be it

Resolved, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC) assembled at its 1990 Summer Committee Meeting in Los Angeles, California, supports legislation amending the PURPA to lift the 30 megawatt restriction for qualifying solar and wind facilities and the 80 megawatt restriction on qualifying geothermal projects; and be it further

Resolved, That the Executive Committee of the NARUC supports only legislation that would lift the size restrictions for the above mentioned renewable technologies and opposes any legislation to expand the list beyond these technologies.

(Sponsored by the Committee on Electricity, Adopted July 25, 1990.)

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2914) was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of S. 2415 as passed by the Senate will appear in a future edition of the RECORD.)

The PRESIDING OFFICER. Without objection, the amendment to the title is agreed to.

The title was amended so as to read:

Amend the title so as to read: "A bill to encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978, and for other purposes.".

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

The motion to lay on the table was agreed to.

STUDY ON ESTABLISHING A UNIT OF THE NATIONAL PARK SYSTEM TO COMMEMORATE THE ORIGINS, DEVELOPMENT, AND PROGRESSION OF JAZZ IN THE UNITED STATES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 836, S. 2846, a bill to authorize a study of the feasibility of establishing a unit of the National Park System to commemorate the development of jazz in the United States.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2846) to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes,

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SUITABILITY AND FEASIBILITY STUDY.

(a) IN GENERAL.—In order to determine an appropriate means of preserving and interpreting the origin, development and progression of the music known as jazz, a music that has gained worldwide influence and respect and represents this Nation's unique contribution to the musical arts, the Secretary of the Interior (hereinafter referred to as the "Secretary"), shall conduct a study of the suitability and feasibility of establishing a unit of the National Park System associated with the origins of jazz in New Orleans, the city in which the cultural strains that became jazz were fused to form this unique American music, and the birthplace of such major jazz artists as Jelly Roll Morton, Sidney Bechet, and Louis Armstrong.

(b) SITES OR STRUCTURES.—(1) The study shall include a determination as to which sites or structures in New Orleans associated with the origin and early history of jazz exhibit the necessary historical and physical integrity to make them suitable and feasible for administration, protection, and preservation as units of the National Park System for the use and benefit of the public. Prior to making any such determination, the Secretary shall consult with and carefully consider the views of affected local citizens and neighborhood groups.

(2) With respect to any such site or structure determined to be suitable and feasible, the study shall include an analysis of potential management alternatives that involve the participation of public and private entities in the preservation of jazz as an American art form, including interpretive performances pursuant to cooperative agreements with the Secretary.

(3) In the event appropriate sites or structures cannot be identified, the study shall also consider and make recommendations concerning sites which would serve as an appropriate location for the construction or reconstruction of a facility to commemorate the origins and early history of jazz in New Orleans.

(c) Additional Recommendations.—The study shall also include recommendations for—

(1) public outreach programs, including but not limited to programs designed to involve elementary and secondary school children in the understanding of jazz as an American art form, study internships, summer workshops, teacher training programs, and programs to support school visits and workshops by musicians;

(2) the establishment of a jazz education center and an early learning center in the structure or site described in subsection (b);

(3) an appropriate Federal role in supporting second line bands, and in preserving the unique contributions to the development of jazz made by neighborhood social and pleasure clubs, including recommendations for interpretive performances by such clubs, educational outreach programs, and the feasibility of establishing an oral history or other programs to assure that the contributions of such clubs are preserved; and

(4) an assessment of the need for the preservation and dissemination of information about existing public and private archival collections (with potential alternatives for an appropriate Federal role) and possible management alternatives including cooperative agreements with existing public and private facilities and institutions.

(d) JEAN LAFITTE NATIONAL HISTORICAL PARK.—The study shall also assess and include a recommendation concerning the desirability and feasibility of including any site or structure identified pursuant to subsection (b) within the boundaries of the Jean Lafitte National Historical Park.

SEC. 2. SUBMISSION OF STUDY.

The Secretary shall submit the study referred to in section 1 to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, no later than one year after the date funds are made available for such study, together with any recommendations for further legislation.

SEC. 3. PRESERVATION OF JAZZ ADVISORY COMMISSION.

(a) ESTABLISHMENT OF THE COMMISSION.—There is hereby established the Preservation of Jazz Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of fifteen members who shall be appointed within ninety days after enactment of this Act as follows:

(1) one member to be appointed jointly by the Speaker of the United States House of Representatives and the President Pro Tempore of the United States Senate;

(2) the Mayor of the City of New Orleans or the Mayor's designee;

(3) three members to be appointed by the Secretary from among recommendations submitted by the Mayor of New Orleans who shall have experience in elementary, secondary and post-secondary music education programs emphasizing jazz, respectively;

(4) one member to be appointed by the Secretary from among recommendations submitted by local business and economic development groups who are knowledgeable about tourism;

(5) one member to be appointed by the Secretary from among recommendations submitted by the producers of the New Orleans Jazz and Heritage Festival who shall have experience in the production of such Festival;

(6) one member to be appointed by the Secretary from among recommendations submitted by representatives of local historic preservation groups;

(7) three members to be appointed by the Chairman of the National Endowment of the Arts who are recognized musicians with knowledge and experience in the development of jazz in New Orleans, one of whom shall be selected from recommendations submitted by local social and pleasure clubs;

(8) one member who is a recognized local expert on the history and development of jazz in New Orleans and is familiar with existing local archival materials, to be appointed jointly by the Chairman of the National Endowment on the Humanities and the Librarian of Congress;

(9) one member with recognized expertise in cultural and folklife preservation and interpretation to be appointed by the Secretary of the Smithsonian Institution;

(10) one member to be appointed by the Secretary who shall be a resident of the Treme neighborhood of New Orleans;

(11) one member to be appointed by the Governor of Louisiana who shall be a member of the Louisiana State Music Commission; and

(12) the Chairman of the Delta Region Preservation Commission who shall serve as an ex officio, nonvoting, member of the Commission.

(b) DUTIES OF THE COMMISSION.—The Commission shall advise the Secretary in the preparation of the suitability and feasibility study required by section 1, and the views of the Commission members shall be included in the study transmitted to the Congress as provided in section 2.

(c) MEMBERSHIP.—No person who is an employee of the Federal Government shall be appointed to serve as a member of the Commission.

(d) COMPENSATION.—Members of the Commission shall serve without compensation. Members of the Commission shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(e) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

(f) QUORUM.—A simple majority of the members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at least quarterly or upon the call of the Chairman or a majority of its members.

(h) PUBLIC HEARINGS.—The Commission shall hold no less than three public hearings in New Orleans to consider the views of the public concerning the establishment of a unit of the National Park System to commemorate jazz in the United States. At least one such hearing shall be held in the Treme neighborhood of New Orleans.

(i) The National Park Service shall provide such staff support and technical assistance as may be necessary to carry out the functions of the Commission.

(j) TERMINATION OF COMMISSION.—The Commission shall terminate one hundred and twenty days after the transmittal of the report to Congress as provided in section 2.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. JOHNSTON. Mr. President, I am very pleased that the Senate is considering S. 2846, legislation which I introduced to direct the Park Service to undertake a study of potential sites in New Orleans, LA, for the establishment of a new unit of the National Park System commemorating the origins, development and progression of jazz in the United States.

Today, America's musicians remain the undisputed and most important leaders in jazz. People from around the world come to this country to hear jazz and our many talented musicians travel to virtually every corner of the globe to perform for others. Given our dominant role in this field, a focal point for preserving, interpreting, and commemorating our great jazz traditions is long overdue.

Jazz music was first played in this country in the late 1800's and evolved as a blend of African and Western European classical music, primarily

French and Spanish. Religious music, particularly gospel music, and other folk music were also contributors to the emergence of jazz. All these elements fused in New Orleans which is the recognized birthplace of traditional jazz music in this country.

It was in New Orleans, in Milneburg and in the historic area known as Storyville, where renowned professors of music such as Ferdinand Joseph Lementhe, better known as "Jelly Roll Morton," who cultivated the stride-style keyboard, Louis "Big Eye" Nelson, who founded the Ninth Ward Band and later joined the historic Imperial Orchestra; and Louis Daniel "Satchmo" Armstrong, who for many outside New Orleans remains the most well-known New Orleams artist, all performed. In Storyville and in Milneburg the first organized Jazz music emerged.

It was also in New Orleans where the African beat was blended with developing syncopated rhythms particularly in the area known as Congo Square, and the rich tradition of black American music was developed in great bands led by such talented musicians as Buddy Bolden. And it was again in New Orleans during the first 20 years of this century that the traditional brass bands played and developed into the famous ragtime bands which played a combination of blues and ragtime.

This music was part of the establishment of the culture of traditional jazz in New Orleans, which migrated and evolved from there north to Memphis, St. Louis, Chicago, and to New York City. It is important to recognize that New Orleans is not only the fountainhead from which all traditional jazz has developed, but also that no other city in the United States has conscientiously preserved the culture of traditional jazz to the degree and in the manner that New Orleans has. The city has dedicated a park to Louis Armstrong who is a native son and one of the great jazz musicians of all time; it has a number of important archival and historical collections in various places throughout the city including the Armistad Research Center at Tulane University and the Louisiana State Museum's collection located at the mint; New Orleans has innovative outreach programs to educate potential future musicians and future audiences throughout the public school system; and at least two innovative new schools are in the process of being established—one for advanced studies at the University of New Orleans and one to reach younger children which has been proposed by the New Orleans Jazz and Heritage Foundation. All of these efforts indicate the local support for preserving and nurturing the unique cultural heritage of New Orleans and the key role which jazz has played.

All of the necessary ingredients are in New Orleans to develop a great cultural center for the preservation of jazz and, with the proper support and financial commitment, there is no doubt that this concept would be a success. Today there are still local musicians and others in New Orleans who are preserving this traditional music, but it is important to act now to preserve this important American contribution to the musical arts.

The study mandated by this legislation will begin the process to ensure that this musical art form will be properly recognized and accorded the institutional status commensurate with its value and importance.

Mr. President, this legislation was the subject of a field hearing in New Orleans on July 27. In response to the testimony received at that hearing, as well as several written statements submitted for the hearing record, the bill has been modified slightly to help ensure that the views of the citizens of New Orleans are carefully considered during the study process. The membership on the advisory commission established to provide guidance to the Park Service during the study has been expanded to maximize local involvement. In addition, a provision has been added requiring the Commission to conduct no less than three public hearings in New Orleans to solicit the views of those interested in this project.

Mr. President, this bill marks the beginning of this project, not the end. No park unit is going to be established until this study is completed and the Congress has had a chance to consider the study's findings and act on them.

I look forward to pursuing the idea of a jazz park in New Orleans and urge my colleagues to support this worthwhile legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2846) was passed.

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

The motion to lay on the table was agreed to.

APPOINTMENT OF CONFEREES—H.R. 4739

Mr. CRANSTON. Mr. President, I understand that the Chair has an announcement on conferees on Defense authorization.

The PRESIDING OFFICER. Under the previous order the Chair appoints the following conferees:

The Chair appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. WILSON, Mr. MCCAIN, Mr. WALLOP, Mr. GORTON, Mr. LOTT, AND Mr. COATS conferees on the part of the Senate.

ORDERS FOR THURSDAY, SEPTEMBER 27, 1990

Mr. CRANSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. Thursday, September 27 and that, following the time for the two leaders, there be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

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

RECESS UNTIL 11 A.M. TOMORROW

Mr. CRANSTON. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order until 11 a.m. tomorrow, Thursday, September 27.

There being no objection, the Senate, at 6:39 p.m., recessed until Thursday, September 27, 1990, at 11 a.m.