# SENATE—*Friday, October 12, 1990*

*(Legislative day of Tuesday, October 2, 1990)*

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

*For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.*—Jeremiah 2:13.

Mighty God of mercy and grace, these words from the prophet Jeremiah remind us of our propensity to forsake Thee and deprive ourselves of the abundant life You so graciously promise.

One great philosopher theologian said, "Thou has made us for Thyself, O Lord, and restless are our hearts 'til they find rest in Thee." Incurably religious, if we do not follow Thee, the true God, we seek a substitute and follow it, even if it is a No God with a capital "N." Instead of drinking at the well of living water, we draw from dry wells and suffer lives that are barren and arid spiritually. Help us to realize our need of Thee, that we cannot find our way without Thee, whether we reject Thee by decision or indifference. Help us to recognize our need of Thee and turn to Thee and receive from Thee the living waters.

We pray this in His name who can be within us the fountain of living water. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, October 12, 1990.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

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

## RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

## THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

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

## SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, as I have stated several times publicly in the last few days, it is my hope that the Senate will be able to proceed to and complete action on two of the recently reported appropriations bills, the Labor, Health and Human Services appropriations bill, and the Foreign Operations appropriations bill.

As all Members of the Senate know, if we are to complete action by this Congress by the deadline of next Friday, we will be required to have completed action before then on all 13 appropriations bills and then, after those are the subject of a conference with the House, the conference reports on those appropriations bills. It is therefore imperative in order to meet that schedule that we complete action on those two appropriations bills which are available this week.

As of yesterday, I was unable to obtain the required consent to proceed to those two appropriations bills because of objection from the Republican side. I stated then and repeat now that if we are unable to obtain consent to proceed to those bills today, we will have to be in session tomorrow, Saturday, to complete action on them because, of course, by tomorrow afternoon the period required with respect to reports on the bills will have been completed and we can move to them at that point.

I believe no useful purpose would be served were that to occur. I believe it makes much more sense, and will be much more accommodating to the overwhelming majority of Senators, if we are able to take up those bills and act on them today, Friday, and not be in session on tomorrow, Saturday. I believe almost all Senators will be inconvenienced and some of them greatly inconvenienced by our inability to act on those measures today and having to wait until tomorrow afternoon to do so.

So I will at the earliest opportunity renew my request for consent to proceed to the Labor, Health and Human Services appropriations bill and the Foreign Operations appropriations bill this morning so that we can get started on those and, hopefully, complete action at a reasonable hour today. If not, I repeat, regretfully, that we will have to be in tomorrow for that purpose.

## RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my time and I reserve all of the time of the distinguished Republican leader.

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

## 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.

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

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

The legislative clerk proceeded to call the roll.

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

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

## THE BUDGET

Mr. BURNS. Mr. President, as we work this morning and today and these next few short days of this 101st Congress, on our different committees, trying to bring some sanity to Government in the direction in which most of us would like to see it go, there has been some confusion, I think, among some people in this country as to where some of us are coming from, and what is making us tick, and where we would like to see Government fulfill its obligations to the people.

It is hard to stand idly by and listen to speech after speech and colloquy after colloquy regarding the problem of financing Government, financing those services that Government

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

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should be doing for the people, and trying to maintain some fiscal responsibility to the taxpayer. If you listen to the mass media, you become even more confused, and that is only natural, because I think they, too, are confused when you look at the complexity of the debate.

Over the next few days, I would like to try and clear up a few things—to talk about some myths that happen to be going around the Hill.

Myth No. 1: The deficit problem can be solved by increasing taxes, and especially taxes on the so-called rich. We hear speech after speech, and read column after column extolling the virtues of tax fairness. Economic analysts immediately attacked the budget agreement, the first summit agreement, saying it placed the bulk of the largest tax increase in history on the backs of the middle class and let the very rich escape virtually unscathed.

The congressional tax-writing committees, and many of the other side of the aisle, seized the opportunity to set out to correct this inequity which, according to the mass media, was caused by Republicans who would rather balance the budget on the back of "Joe Six-Pack," than on "Winthrop P. Wine- cooler III.'"

Well, you are looking at a Joe Six-Pack. I am the second poorest Member of this Senate.

I beg to differ with their characterization of me and my party. I consider myself a mainstream Republican. I have worked hard all my life, paid my taxes, some I did not like.

I ran for the U.S. Senate on the platform of no new taxes and advocated the control of Government spending as the solution to our deficit problems. And, after about 2 years now, I still believe that. If we could balance this budget by taxing the rich, we would have done it a long time ago. The fact of the matter is that in order to balance the budget by raising taxes every working man and woman will have to pay.

The bulk of the budget package still relies on the gas tax, cigarette tax, alcohol tax, other transportation taxes, and an increase in one of the payroll taxes. All of these taxes are paid by lower middle class, middle class, and the rich. We all pay them alike.

The so-called tax fairness package, which could include a tax increase on the rich in exchange for some type of reduction in the capital gains rate, will only raise about $40 billion in the next 5 years.

The accumulated debt in that same time period will be just over $1 trillion. We have not made a very big dent in the debt by taxing the so-called Winthrops.

A tax increase on the rich of the size currently being considered would only result in a 4-percent reduction in the debt. Four percent, Mr. President, that does not balance the budget, pure and simple.

Now, at this point some will say, "Well, we just need to increase the taxes on the rich some more. We will put some more on them." That is an option, I guess, but it still will not solve the problem.

In fact, if we confiscated all income from the rich, we still could not balance this budget. If we, the Government, just took all the income from those in this country who make more than $200,000 a year, we still could not meet our goal of a balanced budget.

Based on 1988 statistics, total confiscation of that income would bring the Federal Government an additional $260 billion. That would eliminate about one-quarter of our accumulated debt over the next 5 years.

It would be a start, but it still would not solve the problem.

The fact is that if Congress intends to continue spending at the current rate, every producing, working man and woman of this Nation will have to pay. The middle class, the people who already fork over much more to Uncle Sam than they would like to, will pay more. The rich, who already pay more than they like will not like it either; they will have to pay more. We will all pay so that those who serve in Congress can go on buying their way back into office using public funds to do it.

It is time that the American people knew the truth. They are being asked to sacrifice tremendously so that Congress may do all this. Congress is throwing them bad bait. They will catch no fish.

There was an article this morning that I think the American people would find interesting. I have heard it said we are reaping the results of the Reagan era—where the rich go off scott free. Let us take a look at the facts. As they say, "Liars will figure, but figures do not lie." Right? In 1981, the top 1 percent of the income earners in this country—those called the rich, the very rich—were paying 17.6 percent of total income tax revenues to this Government. In 1987, they were paying 24.7 percent. It is an increase of 39.8 percent.

If you want to go a little further down into those incomes, the top 5 percent of the income earners of this country were paying 35.1 percent of total income tax revenues; in 1987 they were paying 43.1 percent of the incomes taxes to the Federal Government—an increase of 22.8 percent.

Let us take it a little deeper. The top 10 percent of taxpayers—those still considered high income—were paying 48 percent of the income taxes coming into the Federal Government in 1981. In 1987, they were paying 55.5 percent—a 15.6-percent increase.

It is nice to talk about that end of the scale, but let us talk about the other end. And remember the kind of taxes and fees we are talking about in this budget will hit the average people of this country, in other words, the middle-income and lower-income people. Now let us see what happened in the 1980's as far as the lower 50 to 90 percent of income earners that paid income taxes into the Federal coffers. They were paying 44.3 percent in 1981. In 1987, they were paying 38.5 percent, a decrease of 13.1 percent. Finally, in 1981, the bottom 50 percent were paying 7.5 percent of the total income tax revenues to the country. In 1987, they were paying 6.1 percent, a decrease of 18.7 percent.

These are actual figures. These are not myths or pie in the sky.

What I am saying here is that this working Republican still does not believe that collecting more taxes and more fees is going to solve the dilemma that we are in. It has to be the other way around. We have to look at the spending side—at Government waste. In committee the other day we were told that we had to find ways to increase savings. When they talk about increasing savings in the budget reconciliation process, they are talking about increased taxes and fees. I do not know why they say "savings." I cannot run my family like that. You cannot run yours. I guess the term "savings" has a different meaning inside the beltway than it does in Montana.

So the basic disagreement is this: Right now spending is above revenues—we spend more than we bring in. There are those who want to raise revenues higher and with no enforcement spending will continue to rise. I believe we need to bring spending back to the level of our revenues.

Our economy is not all that frisky. I do not think it can stand another tax raise. So that is where this Republican is coming from; make no doubt about it.

Mr. President, I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DASCHLE). Morning business has expired.

## TRADITION OF RHODE ISLAND SERVICE: POLICE CAPT. JOHN T. LEYDEN, JR.

Mr. PELL. Mr. President, I want to share with my colleagues an example of the finest traditions of dedicated police service. That example is provided by Capt. John T. Leyden, Jr., who is retiring after 26 years of service to the Rhode Island State Police.

Captain Leyden is part of a proud family tradition of police service in Rhode Island. His father retired as the chief of police in North Providence

and Captain Leyden's son is continuing the family tradition, serving as a trooper in the Rhode Island State Police.

A native of Providence, where he was born January 17, 1940, Captain Leyden is the son of Chief John T. Leyden and the former Marie Hannifan. He is the husband of the former Maureen D. Collins of North Scituate.

They are the proud parents of four children, Dr. Doreen D. Chadwich, M.D., Trooper John T. Leyden III of the Rhode Island State Police, Darlene M. Leyden, and Dianne L. Leyden. They also have three beautiful grandchildren.

Captain Leyden graduated from the Rhode Island State Police Training Academy and was sworn in as a State police trooper in 1964. He was assigned to the Governor's security in 1969 and served that mission for 10 years.

He served Govs. Frank Licht, Phillip W. Noel, and J. Joseph Garrahy. He was promoted to corporal in 1970, to sergeant in 1971, to lieutenant in 1974 and, finally, to captain in 1979.

More recently, Captain Leyden has served as day inspecting officer in 1980-81, division B commander in 1981-82, division A commander from 1982-86, and then as adjutant in-charge of the uniform division.

I am confident that I speak for all who know him, and all who have been helped by his hard work, when I say he and his fine family have all our best wishes. Congratulations on a job well done.

## A TRIBUTE TO FRANCES WILLIAMS

Mr. BURDICK. Mr. President, today I rise to pay tribute to a staff member of the Environment and Public Works Committee who has given 30 years of service to the Federal Government and 20 of those to the Senate Environment and Public Works Committee. Frances Williams, known to most as Frankie, epitomizes the dedicated, selfless, hard working Senate employee. Our committee thrived as a result of her tenure.

Mr. President, Frankie began working on the committee 3 years before I joined the Public Works Committee in 1973. She has served under three different chairmen. Her work for both the majority and minority proves her versatility and compatibility. Her generous personality and driven work habits have made working with her pleasurable and effective for staff and Senators alike.

The committee members and staff will miss Frankie, but her retirement is well earned and something we know she is looking forward to. I extend a hearty thank you to Frankie on behalf of all of the members of our committee. Sincere and warm wishes, Frankie, for the best is yet to come!

## TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,036th day that Terry Anderson has been held captive in Beirut.

Conspicuous among the champions of American hostages remaining in Lebanon, are the men who have suffered like ordeals. Indeed, their techniques vary. But their objective, Mr. President, is the same. This past Wednesday, Frank Reed—released April 30, 1990—vowed that he "will never be free until his fellow hostages are" and implored his audience at Rutgers to "never forget the others."

I ask unanimous consent that an Associated Press article including excerpts from the hour-long address be printed in the RECORD.

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

FORMER AMERICAN HOSTAGE CONTINUES QUEST TO FREE OTHER HOSTAGES

(By Melanie Burney)

CAMDEN, NJ.—Freed hostage Frank Reed, released nearly six months ago by his Islamic kidnappers, is continuing his quest to focus attention on the plight of the remaining western hostages in the Middle East, including six Americans.

"I'll never be free until my fellow hostages are," Reed told about 100 people Wednesday at Rutgers University's Camden campus. "I will keep trying to get some message across that I do care about the others and want them home."

The remarks came amidst reports Wednesday that Anglican church envoy Terry Waite and other Britons held hostage in Lebanon will be released before the end of next week. The report in Akhbar al-Yom, or Today's News, could not be confirmed. It follows several Lebanese newspaper reports predicting the release of British captives.

Reed, 57, of Malden, Mass., was unaware of the reports Wednesday but he said they came as no surprise. Diplomatic relations between Iran and Britain were restored in September after a 19-month break.

Reed was released April 30 after 44 months in captivity in Lebanon.

"Please, America, please, England and please, Rutgers, let's never forget the others," Reed said during his hour-long address. "I was released, sadly, before the others."

Most of the 13 Westerners missing in Lebanon are believed to be held by Shiite fundamentalists affiliated with the pro-Iranian Hezbollah, or Party of God.

The Americans being held include Terry Anderson, chief Middle East correspondent of The Associated Press, who is the longest-held foreign captive in Lebanon. He was kidnapped in west Beirut on March 16, 1985.

"Terry Anderson has been beaten," Reed said. "Terry Anderson has been deprived."

Camden was the latest stop for Reed, who has tried to focus international attention on the plight of the remaining hostages. He plans to return to New Jersey in several weeks to address a gathering in New Brunswick.

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

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Without objection, the period for morning business has expired.

## ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, after conferring with the majority leader, and the Republican leader, I wish to inform my colleagues that there will be an effort to proceed on the appropriations bill for Labor, Health and Human Services, and Education at 11:15. We have been awaiting efforts to try to move this appropriations bill to the floor for some substantial time now. It is the intention of the majority leader to proceed in that direction that way.

So as one of the managers, ranking minority member on that subcommittee for the Appropriations Committee, I think it is useful to give this kind of notice. We are putting word on the telephone, in addition. But we are confronted with a situation where we are looking toward a Saturday session. We have many bills which we have to finish. We are ripe for consideration I believe on the Labor, Health, and Human Services, and Education appropriations bill. That will be done at 11:15.

I thank the Chair.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

Mr. SPECTER. 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. SPECTER. Mr. President, I ask unanimous consent that I may proceed for a period of time not to exceed 10 minutes as in morning business, in light of the fact that there are no other Senators on the floor.

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

## THE CIVIL RIGHTS BILL

Mr. SPECTER. During this break in the proceedings, I think it is worthwhile to report to my colleagues and others the status of the conference report on the civil rights bill.

The House of Representatives recommitted the conference report yesterday to the conference committee. There, the conference committee ac-

cepted certain amendments to the civil rights bill, which I think are worthy of some explanation so the Members may be aware of what has been accomplished. It is this Senator's view that the critical issue relating to quotas has now been satisfied by every material change in the bill.

The revisions which were made, Mr. President, resulted from very lengthy negotiations involving Senator HATCH, former Secretary of Transportation, William T. Coleman, Jr., and myself, during the course of the last several weeks. This has followed very extensive negotiations which have involved many Senators and many members of the administration.

There have been good faith efforts to try to work through the problems of the civil rights bill. Some time ago, Governor Sununu and President Bush requested that of Senator DANFORTH, Senator JEFFORDS, and myself, help out on the negotiations. That was the activating force of my personal involvement. It has been seeded for many months.

The critical events occurred in the course of the last several weeks, when Senator HATCH, Mr. Coleman, and I negotiated through, and, in the early morning hours last Thursday, came to terms on some very significant modifications.

The central issue, Mr. President, has been whether or not this civil rights bill would result in quotas. All agreed that we should not have quotas. The difficulty has been in defining special language—as we have wrestled with the Supreme Court's decision in Wards Cove and in Griggs and intervening cases—so that we would accomplish that.

I suggest we have accomplished it in this manner: First, there will have to be a showing of disparate impact, that is, the statistical imbalance. That, however, is not enough to put the burden of proof on the respondent employer to come forward to show business necessity. Instead, the complaining party, the plaintiff, under our revision, has the burden of proof of showing which practice or practices of the employer caused the disparate impact. So the plaintiff has that traditional burden of proof to show with particularity the practice or practices which caused the disparate impact.

It is at that stage, Mr. President, that the respondent employer has the opportunity to come forward and show business necessity, which would justify the business practice or practices which led to the disparate impact.

It may be easier if I would illustrate what we have in mind. This is a hypothetical case where the disparate impact level is 40 percent, the ratio of minorities in the community; but in this particular company, there is an exclusion of 45 percent on three business practices, each of which accounts for 15 percent. Three times 15 is 45. If the complaining party, the plaintiff, proves that these specific business practices caused the disparate impact, then at that stage the employer-respondent may come forward, and by showing business necessity as to one of those factors, then it reduces it to 30, and we are below the level of disparate impact and the employer prevails.

One of the complex issues in this settlement, Mr. President, involved the unique role played by Senator HATCH, the ranking Republican on the Labor and Human Resources Committee.

When we finished our work in the early morning hours a week ago Thursday, and Senator HATCH, Mr. Coleman, and I met for the final agreement, Senator HATCH said that he found the amendments acceptable, although not perfect—and hardly anything is perfect around here or anywhere—and that he would recommend the proposal to the President. However, he reserved the position of voting against the amendment, if the President did not agree to it.

Mr. Coleman, at that juncture expressed some surprise over this, but I said I thought Senator HATCH was within his rights to take that position, because he had not made any commitment beyond the points which he stated.

So we had yesterday an unusual situation where at the conference Senator HATCH voted by proxy against the proposals, because the President has at this stage not found it acceptable.

It is my hope, Mr. President, really my expectation, that before we are finished with the negotiations, we will be able to secure the President's approval. There are ongoing negotiations with representatives of the administration. We did have a meeting a week ago last Thursday, with representatives of the administration present in Senator DOLE's office, and a number of Senators. At that time, the proposal was rejected.

There have since been submissions on my part from members of the administration, not binding with other proponents of the bill, to make some modifications. And it is my hope, as we stand here, we will be able to work that out.

A number of us have requested a meeting with the President. Hopefully, that can occur today, although obviously the President has a very crowded schedule. But that request was made by Senator DOLE's office first this morning so that we can continue in our efforts to try to reach an agreement with President Bush and with the administration on this very important item.

I have talked with quite a number of my colleagues individually on this matter. It is a technical matter. There are some other considerations on the case of Martin versus Wilkes where Senator HATCH secured some very important modifications. That is a case of consent decrees where a court said anyone can come in and upset a consent decree.

The early drafts of the bill eliminated that a consent decree was totally binding on everyone. Senator HATCH's initiatives resulted in significant modifications there which would be helpful to the business community, so that those who are not employees or parties or adequately represented could come in and challenge consent decrees.

There was also a very significant modification made on the Price Waterhouse case, which is a mixed motive case. I am not going to go into great detail on the specifics of the case, but there had been concerns about compensation and punitive damages in the context where the conduct was not responsible for failure to employ. That is mixed motives, where some motives were not proper or appropriate. There were other reasons why the individual was not employed.

As a result of what Senator HATCH has done on that important line, there will not be compensatory or punitive damages, but the relief will be limited to declaratory relief, injunctive relief to prohibit the conduct in the future, and costs and attorney fees.

It is my hope that our colleagues will carefully examine this bill, because I think it moves to the core of the concern over quotas and eliminates that issue, because statistical imbalance alone does not establish the case. There has to be the further showing by the plaintiff of the specific employment practices which cause the disparity. And, as I say, even at that juncture, the defendant may come in and, by showing business necessity, undercut whatever else has been shown.

This disparate impact approach is different from intentional discrimination. If someone can prove specific discrimination, that is a separate cause of action and is always a possibility.

This line on disparity, the impact on statistics, has raised a concern about the quota bill. As I said, I think we have addressed that here. This matter will be coming to the floor of the Senate sometime, perhaps early next week.

Therefore, I am ready to discuss the issues with my colleagues at any time for further amplification on some of these matters, because they are involved.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Labor-HHS appropriations bill, H.R. 5257.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, I have been asked on behalf of another Senator to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, every Member of the Senate should now understand what is occurring. I have been trying for 2 days to get consent to proceed to this appropriation bill. All of the Senators regularly come up to me and say, we want to get out of session by October 19; it is imperative that we complete this session of the Senate by October 19. And we are trying to do that.

Everyone here knows, or should know, that the Senate cannot adjourn sine die without completing action on all of the appropriations bills. We have not yet completed action on all of them. There are two appropriations bills that are now ready for action. The reports were filed yesterday.

Under the rules of the Senate, if a Senator insists, he can prevent the Senate's taking up until 48 hours have elapsed after the receipt of the report. It has been a regular practice in the Senate, under both the majority of Republicans and the majority of Democrats, to waive that rule and to permit consideration of appropriations bills within less than 48 hours following receipts of the report. I have said publicly on several occasions, we must complete action on those bills this week if we are to have any hope of completing this session of the Senate by the deadline of next Friday, October 19.

Now we have one Senator objecting on behalf of another. I do not know why the Senator who is objecting cannot himself come here and state the objection; if the Senator from New Hampshire does not object himself, why he cannot ask his colleague, who is inconveniencing 99 other Senators by forcing them to be here on a Saturday when the Senate could be acting on a Friday.

I hope all my colleagues will remember, and especially my Republican colleagues, that the President has said he will not sign another continuing resolution after next Friday. So if we do not complete action on this, we continue in session. Presumably we run into the problem of encountering difficulties with another continuing resolution thereby bringing the Government to a stop all because of one Senator, who will not come to the Senate floor and object himself but has another Senator stating objection in his behalf. So the Senate will have to be in on Saturday. Ninety-nine Senators will be inconvenienced.

I just want to say that those are the rules of the Senate. Those are the rules under which we must operate. It is possible for one Senator to inconvenience 99 others.

It would be one thing if, by this objection, the Senator could prevent the Senate from bringing up this bill, but that cannot happen. All it does is delay it for 1 day.

Since we will have to be in session tomorrow and since the receipt of the report occurred at 2:45 p.m. yesterday, the objection can be made until 2:45 p.m. tomorrow.

May I inquire through the Chair of the Senator from New Hampshire if the Senator on whose behalf he is here stating the objection will persist in his objection up until 2:45 p.m. tomorrow, so there is no point in my bringing the Senate in any earlier than that, thereby further inconveniencing Senators?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, if I may respond, first, the Senator who objects cannot be here. He is engaged elsewhere at this point, but I think will be free shortly. Second, I simply do not know his intent. I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I hope before we make a decision to come in tomorrow we might renew the request maybe at 12 or 12:15. The Senator from New Hampshire states the other Senator just cannot be here at this time but he can be here probably in 30 or 45 minutes. I also hope there will not be an objection at that time.

Let us face it, the realities are there is going to be an election here in about a month. The last time I checked, there were a number of Members on each side who were running for reelection and wanted to be home tomorrow on the weekend for a lot of activities that have been scheduled for some time.

I hope whoever is objecting now would remove that objection. If not, then perhaps at 12:15, if there is still an objection to the Labor and HHS bill, maybe the same request could be made for Foreign Operations. Maybe we could start on that today.

I guess the leader could make that request now. Maybe we could start on that. If there is no objection to that bill we could still have something before the Senate.

Mr. HUMPHREY. Will the Republican leader yield on that point? I wish he would withhold that request for just a few minutes. I was discussing that very matter with the Senator from Alaska a moment ago and we had not concluded that discussion.

Mr. MITCHELL. Mr. President, it had been my intention to, at this moment, make unanimous-consent request to proceed to the Foreign Operations appropriations bill. I hope to do so.

If the Senator would like a few minutes to discuss it, of course I will be pleased to accommodate the Senator's concern.

Might I state, then, that at not later than 11:45 a.m., I will make a request with respect to the Foreign Operations appropriations bill. And then, as the distinguished Republican leader suggested, if we cannot get that up, I will proceed to make another request with respect to the Labor-HHS appropriations bill shortly thereafter.

I simply want to say even if we get consent, we will have wasted the entire morning when we could have been doing these bills. I hope we get consent so we do not have to be in tomorrow. But it just points up the difficulty of proceeding, particularly in these closing hours.

For now, Mr. President, I will, at the request of the Senator from New Hampshire, withhold on my request to ask for consent to proceed to the Foreign Operations appropriations.

Mr. STEVENS. Will the Senator yield to me for just one moment?

Mr. MITCHELL. Certainly.

Mr. STEVENS. I have been working with the distinguished President pro tempore, Senator BYRD, chairman of the Appropriations Committee, as these bills have come through our committee. Because of the delay in getting the 302(b) allocations, we had to wait to bring them to the floor.

With the cooperation of the committee we have now brought to the floor a series of bills that we urged Members not to delay in the committee. Appropriations Committee members did not offer amendments they wanted to offer. Many of the issues to be explored now by the Senators who are objecting were not taken up in committee due to the fact that we knew they would be brought up here on the floor.

I think one of the problems is that some Senators think we should have taken up the amendments, only to take them up here again; the losers there and the winners would trade places when it got to the floor. We felt it was in the best interest to bring the bills out even though we knew there

were still issues to be resolved on the floor.

I urge Members on my side to realize we have, because of the leadership and majority on our Appropriations Committee, deferred to the President's negotiators. That is the reason we have delayed this length of time to get these appropriations bills here.

It is extremely unfair to all of us now not to give us the opportunity to proceed to consider the amendments that would have been considered in committee, in which case the bills would not have gotten here until next week. They are here today for the purpose of action. I urge Members on my side to give us the consideration and allow us to go to the votes that will determine these issues right here on the floor. We are ready.

I think there is another bill ready now. The Defense bill is ready. It will take some time to get it printed up. I think there is a printing problem there. But I do think the leader is right, we should proceed. I think we could dispose of both of these bills today, I might say. We know what the issues are. We know they are going to come to a vote here.

There is no reason in my judgment not to proceed.

Mr. MITCHELL. I thank my colleague.

Mr. HARKIN. Will the leader yield?

Mr. MITCHELL. Certainly.

Mr. HARKIN. I want to second what the distinguished Senator from Alaska just said. We worked very hard on Labor-Health and Human Services over the months. Senator SPECTER, who is the ranking member; Senator STEVENS is also on that subcommittee; Senator DOMENICI—on both sides, Members have worked very hard. Staffs worked very hard.

When we brought this up in subcommittee there was not even one amendment. That is how closely we worked together to fashion a bill that would be acceptable to both sides.

Then when we brought it to full committee again there was not even one amendment. Well, we had one amendment that was just voice voted and that was it. As Senator STEVENS said, we understood there would probably be a couple of amendments on the floor that would be offered to the bill.

Beyond that, the rest of Labor-Health and Human Services has had unanimous support from both sides of the aisle in both subcommittee and full committee. That is why I am somewhat surprised and dismayed that someone would object to bringing it up here. As the leader said, they are free to amend it here on the floor if they wish to do so.

I want to add my thoughts to what Senator STEVENS said. He is right on the mark on that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, I further ask unanimous consent to address the Senate as in morning business.

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

Mr. GRASSLEY. If I did not ask a specific time, I ask 10 minutes for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed for 10 minutes.

## MIA/POW REPORTS

Mr. GRASSLEY. Mr. President, I do not expect my colleagues to remember this, but on July 31 I rose before this body and spoke. At that time I posed several questions regarding a request that I had made to the Defense Department several months before for access to eyewitness reports on American prisoners of war in Southeast Asia. I, and also some others of my colleagues, at that time had been denied access to these files for the sole reason, as we were told, that they were classified. That response came in April from Assistant Secretary of Defense for International Security Affairs Mr. Henry Rowen.

In my July 31 speech before this body, I raised the question of whether or not that response from Mr. Rowen was appropriate, in a sense, because how utterly ridiculous to say in a letter from the Defense Department that documents were classified so that Senators could not have access to them because routinely Members of the Senate have access to classified documents. That was on July 31.

The day after I made my statement, I received a letter from the Assistant Secretary of Defense for Legislative Affairs, Dr. David Gribbin. That letter reversed the position announced earlier by Mr. Rowen, and so I and my colleagues have been granted access to these POW files, although the access has been under the most extraordinary of restrictions.

Mr. President, I would like to describe what I mean by the most extraordinary of restrictions. I, CHUCK GRASSLEY, have to go the the Pentagon myself and camp out there if I want to review these documents. I am not even allowed to bring my own staff regardless of the fact that some of my staff have the appropriate clearance. Instead, I have to bring staff from one of three committees, even though I do not sit on any of those committees. Furthermore, if I were to leave during this period of time, or my staff being over there, the staff has to leave as well as a matter of practice. To use a rest room or something like that, that has not been the case, but if I leave the Pentagon, it would surely be the case.

Needless to say, this is a maximum inconvenience for a Member of the U.S. Senate for documents that are classified mostly as secret, confidential, or for official use only, which is not a category of classification at all.

Mr. President, my purpose in raising this issue today is not to quarrel with those arrangements at this time, even though it is a most inappropriate and extraordinary arrangement. In the end, the department did the right thing by granting me and my colleagues access after its initial reluctance to do so. I would like to thank those at DOD who worked against the grain and probably at extraordinary odds to finally see the irresponsible answer I first got of denial and to help us get access. So I do want to thank those people in the Defense Department who made access possible.

I have taken advantage of this access by spending 116 man-hours, together with my staff—actually 38 hours of my own time—poring through hundreds of these files. Having seen many of these reports, I am not at all convinced that they warrant such extreme precautionary measures. The question, and this is the purpose for which I rise today, Mr. President, is: What is it, or what has it been, that compels such an unreasonable position on the part of the DOD?

I may not have an answer to that question, but I do believe that I have uncovered the first piece of that puzzle. On Wednesday, I received in the mail a letter from a prominent national organization of POW families. Attached to this letter was a memorandum, without letterhead, dated August 2. The memo is to Mr. Paul Wolfowitz, who most everybody in the Senate would recognize as being involved in a lot of important positions over the last few years in our Government, presently Under Secretary of Defense for Policy. This memo to Mr. Wolfowitz is from someone named Ann Mills Griffiths. Ms. Griffiths, I am told, was the principal agent lobbying against access to POW files by Members of the U.S. Senate. I am told the intensity of her effort was immense.

This memo written just after access was granted to us lays out the entire rationale for why someone ought to question the access to Government information by Members of the U.S. Congress. It also provides an extraor-

dinary explanation of why our access has been restricted.

Before delving into the specifics of the issue, Mr. President, let me say a word or two about this person named Ann Mills Griffiths. First and foremost, she is a member of the Government's interagency group on POW's. She is, however, a nongovernmental employee and is also head of a national POW organization. I am told that she is the only non-Government employee who is a part of the Government interagency group. Despite her non-Government status, she has been given security clearance. That clearance has enabled her to review the very documents that she has lobbied strenuously to deny Members of Congress access to.

Again, these are eyewitness accounts. These files that we wanted to see are eyewitness accounts of U.S. prisoners in Southeast Asia. She told me in a meeting I had with her in my office in April that she has read those eyewitness accounts and that they show no evidence that American citizens were left behind in Southeast Asia after the war in Indochina.

Mr. President, why is it then that this quasi-governmental official would want to deny those of us who are U.S. Senators an opportunity to review these documents as well as she had that opportunity? Could it be that she simply has a misunderstanding about the role of the U.S. Congress as laid out in our Constitution? Or could it be that after years as a quasi-governmental official that she has become afflicted with a disease known as bureaucratitis?

I do not know the answer to these questions, nor even if they are the correct questions that I ought to be asking at this time. But these are the kinds of questions that just naturally arise after reading the memo that I received, which memo was dated August 2.

So I would like to, Mr. President, read from this memo, and I am not going to quote in toto, but I will have the total memo printed in the RECORD. In fact, Mr. President, I ask unanimous consent to print the memo at the end of my statement.

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

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, for the benefit of my colleagues, I want to read from this August 2 memo from Ann Mills Griffiths to Assistant Secretary of Defense Paul Wolfowitz. The subject is: Access to Classified POW-MIA Material:

As you know, the President, Vice President, Secretary Cheney, you Bob Kimmitt and others have firmly committed the U.S. government to pursuing resolution of the POW-MIA issue as a matter of highest national priority. These pledges were taken at face value and gratefully received by POW-MIA families. If implemented, this course—

Meaning this course giving access to U.S. Senators—

makes a mockery of the Bush administration commitments.

That is laughable as a statement, but that is what this memo says. Of course, there are no reasons given as to why this should be done.

The message says:

On any other matter of highest national priority, sensitive information is not subject to indiscriminate release outside the parameters established by the Congress itself, that is the respective select committees on intelligence and responsible staff members with appropriate clearances. This path, if followed—

Meaning the path that was outlined in our access to these records—

sets a precedent for similar access on other issues; such a step would not be considered, much less approved, on Cambodian, Soviet, Chinese, Middle East or other matters of importance to the United States. In short, the Presidents and Secretary's pledges will be viewed as nothing more than hollow tokenism.

This is where the sky begins to fall in, Mr. President, as I read this memo.

My concern is that if this decision is implemented, the above message—that the POW/MIA issue is one solely of rhetorical priority—will be made clear throughout the U.S. Government. Equally and more important, Hanoi will perceive that stated U.S. policy on this issue is no longer valid and that resolution of the fate of America's POW/MIA's is not an issue which they need to seriously address.

Beyond these significant policy considerations, there will be a severe negative impact throughout the intelligence community. One can anticipate immediate CIA and NSA action to pull their documents and information from the files currently held by DIA. Department of State, the FBI, and DEA, as well as friendly foreign intelligence services and others with ongoing investigation and cooperative programs will cease all cooperation on POW/MIA-related matters. Sensitive sources and methods will be exposed which will have an adverse effect on source cooperation and reporting. Strategies will be exposed and negotiations will be compromised by revealing the extent of U.S. knowledge and intelligence gaps to those from whom we are seeking information.

She is saying basically if U.S. Senators know this.

As outlined in Mr. Gribbin's letters DIA's Special Office for POW/MIA affairs will necessarily be available to assist Members of Congress and staff during their review of this material. This will usurp critical manpower from important serious efforts to accomplish the objectives stated by the President and Secretary Cheney. The current level of personnel in DIA's POW/MIA office was established as a result of the Reagan-Bush priority, hard-earned and absolutely mandatory. Squandering their time and efforts to participate in a "witch hunt" against themselves does nothing to help resolve the issue and, in fact, lends credence to those most involved in accusations that a "mindset to debunk" exists in that office.

Of course, it is now 2½ months later, Mr. President, and the sky has not fallen.

Now, Mr. President, this is, indeed, a troubling memo. Quite frankly, I am not really sure what it means and why it was written. The logic in it is twisted and flawed. It is replete with nonsequiturs. It shows no understanding of the role of Congress as set out in the Constitution. It shows no understanding of the proper relationship between the executive branch of Government and legislative branch. It shows little awareness of the responsibility under the Constitution for congressional access to Government information. And it shows a deep misunderstanding of the laws and procedures for handling classified information.

Furthermore, it suggests a lack of awareness of the line between advocacy of a principle or issue—in the case of the POW issue—and the Government's own position. When a self-declared POW advocate, which Ann Mills Griffiths's, in her non-quasi-governmental role, begins to take the Government's position "at face value," as Miss Griffiths declares in her memo that she has done, then that line has been crossed. This is, indeed, the point that gives rise to the question of whether or not this quasi-governmental official has become bureaucratized.

The more important question, though, Mr. President, is what impact did this rationale, this "sky is falling" hysteria, have, or might it have had on the Defense Department's decision to restrict the access of U.S. Senators to eyewitness accounts of POW's, which documents are either secret, confidential or for official use only. None of them are top secret or code word classified. Why is it that a quasi-governmental official can see them but a U.S. Senator cannot see them?

Why is it that a quasi-Government official can dictate or heavily influence the access of policy of the Department of Defense?

It is my hope, Mr. President, that the answer to these questions will become clearer in the weeks ahead as those of us who are interested in this issue continue our oversight responsibilities. I will continue to discuss this ongoing matter with my colleagues on this floor from time to time in the future until these questions are resolved.

EXHIBIT 1

MEMORANDUM TO PAUL WOLFOWITZ

Subject: Access to classified POW/MIA material.

Date: August 2, 1990.

On August 1, letters from ASD/LA Dave Gribbin were sent to Senators Jesse Helms (R-NC) and Charles Grassley (R-IA) giving them full access to cases of interest on the POW/MIA issue. In addition, Mr. Gribbin suggested that the Senators may wish to invite staff of the Foreign Relations, Armed Services or Intelligence Committees, with the appropriate clearances and with responsibility for the POW/MIA issue, to accom-

pany them to review of the classified material.

An additional August 1 letter was sent to Representative Beilenson stating that Congressman Bob Smith (R-NH) would be provided the same opportunity, along with staff of the Armed Services or Intelligence Committees, under the same clearance criteria. Mr. Gribbin's decision to pursue this course (which I understand was strongly opposed by ISA, DIA and the Deputy Chief of Staff for Intelligence, Department of the Army) has far reaching ramifications about which I feel you and the Secretary should be aware.

As you know, the President, Vice President, Secretary Cheney, you Bob Kimmitt and others have firmly committed the U.S. Government to pursuing resolution of the POW/MIA issue as a matter of highest national priority. These pledges were taken at face value and gratefully received by POW/MIA families. If implemented, this course makes a mockery of the Bush Administration's commitments.

On any matter of highest national priority, sensitive information is not subject to indiscriminate release outside of the parameters established by the Congress itself, i.e. the respective Select Committees on Intelligence and responsible staff members with appropriate clearances. This path, if followed, sets a precedent for similar access on other issues, such a step would not be considered, much less approved, on Cambodian, Soviet, Chinese, Middle East or other matter of importance to the U.S. In short, the President's and Secretary's pledges will be viewed as nothing more than hollow tokenism.

Mr. Gribbin's communications authorize access to individual Members of Congress who have been loudest in proclaiming that USG officials are not pursuing this issue with integrity or priority. (Examples are enclosed.) Their records are replete with implications, or outright assertions, that the USG is involved in a conspiracy to coverup evidence that Americans are being held captive in Southeast Asia.

I have no concern that Members of Congress or staff will uncover anything which would lend credence to the charges of conspiracy against which we have collectively fought since the 1983-86 time frame. On the contrary, while problems are continuously identified and remedied, there is a great well of talent in DIA's Special POW/MIA Office.

My concern is that if this decision is implemented, the above message—that the POW/MIA issue is one solely of rhetorical priority—will be made clear throughout the U.S. Government. Equally or more important, Hanoi will perceive that stated U.S. policy on this issue is no longer valid and that resolution of the fates of America's POW/MIAs is not an issue which they need to seriously address.

Beyond these significant policy considerations, there will be a severe negative impact throughout the intelligence community. One can anticipate immediate CIA and NSA action to pull their documents and information from the files currently held by DIA, Department of State, the FBI and DEA, as well as friendly foreign intelligence services and others with ongoing investigations and cooperative programs will cease all cooperation on POW/MIA related matters. Sensitive sources and methods will be exposed which will have an adverse effect on source cooperation and reporting. Strategies will be exposed and negotiations will be compromised by revealing the extent of U.S. knowlege and intelligence gaps to those from whom we are seeking information.

As outlined in Mr. Griffin's letters, DIA's Special Office for POW/MIA Affairs will necessarily be available to assist the Members of Congress and staff during their review of the material. This will usurp critical manpower from important and serious efforts to accomplish the objectives stated by the President and Secretary Cheney. The current level of personnel in DIA's POW/MIA office was established as a result of the Reagan/Bush priority, hard earned and absolutely mandatory. Squandering their time and efforts to participate in a "witch hunt" against themselves does nothing to help resolve the issue and, in fact, lends credence to those most involved in accusations that a "mindset to debunk" exists in that office.

Finally, indiscriminate release such as Mr. Gribbin has now invited will potentially subject POW/MIA family members to further, tragic exploitation by "activists." I am appalled by this action from an individual who obviously knows little about the issue but is seeking to pander to Congress by sacrificing principle and the integrity of the President and Secretary Cheney. He clearly has no understanding of what this will mean in the broader sense, not to mention POW/MIA.

Mr. GRASSLEY. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may be allowed to speak as if in morning business.

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

## IMMIGRATION POLICY

Mr. SIMPSON. Mr. President, it is interesting to note that the occupant of the chair has been working with me as we have dealt with this issue of legal immigration. I still very much hope that we might be able to resolve it all an come up with a bill with regard to legal immigration in the United States. Perhaps that is possible. Perhaps it is not. Last night we made some good-faith overtures on both sides of the aisle, and on both sides of the Capitol, to attempt to resolve the difficulties in getting a legal immigration bill. Obviously, there are tremendous pressures and tremendous differences, and that is the essence of "end-of-a-session" activity.

I just want the record to reflect that—and it largely comes from what I thought was a rather extraordinary editorial in this morning's Wall Street Journal with a marvelous logo of the Statute of Liberty with a "no vacancy" sign under it and a great big circle with a slash across it and a picture portraying the unique baldness of the Senator from Wyoming. It is called "Stonewall Simpson." I ask unanimous consent that it be printed in the record.

But I have a few more comments about the Wall Street Journal, one of the most inept publications, I know when it comes to understanding immigration policy or what the Congress has been up to on that subject.

In our work in the preconference on legal immigration reform last night, on October 11, 1990, I made the following offer to the House, and in my proposal, I proposed an annual national level of legal immigration of 675,000 visas. That is far and above what I had proposed in my original legislation and above what was proposed in the legislation which was called the Kennedy-Simpson legislation. That figure of 675,000 visas a year is an increase of 35 percent over current law and an increase of 45,000 visas over the Senate bill. I think that is an extraordinary outreach toward compromise on the part of this Senator.

It was also a requirement that all of the visas over the 630,000 level in the Senate bill—45,000—would go to skilled immigrants—skilled immigrants. Sometimes those have been referred to as classic immigrants, sometimes special immigrants, sometimes those with "supplemental skills and abilities." There are many definitions, but skilled immigrants or "employer based" immigrants is yet another phrase. That is exactly what the Council of Economic Advisers of this President have suggested.

I also offered to allow the overall level of immigration to be "pierced," so to speak, to ensure that the current immigration of the immediate families of citizens and immigrants could continue. It is very important to remember that in those areas we do not even "keep score, as to the number of the immediate families of citizens and immigrants who come to our generous country.

The potential House conferees insisted upon a sunset of the bill, and I said I could not abode a sunset of the bill. It is difficult enough to deal with it at any time, but it seems to me that we could have dealt with it year to year as it came up, and we would have had every ability to do that because we had a commission set up and Presidential reports, providing guidance to the Congress, expedited procedures, and much more so that we could never again let it go on and on without attention, and we would have given it attention as it came up each and every year. That is still in the proposal.

So, the House conferees felt they should have a sunset. I did not. They demanded that some of the 45,000 additional skilled visas would go instead to the more distant relatives of U.S.

citizens, in fact, the most distant that can come in under our immigration laws, to brothers, sisters, brothers-in-law, sisters-in-law, nieces, and nephews. That is present law.

So they insisted that some of these 45,000 additional visas—where I came up from 630,000 to 675,000—should go to nieces, nephews, sisters-in-law, brothers-in-law and sisters and brothers instead of having those precious numbers going to spouse and children. I do not understand that. I think precious numbers on precious visas should go to spouses and children and not more distant relatives.

So I believe that I have bent more than perhaps I ever should have in the offer and still it was not accepted. It was my best effort, my best honest effort at a good faith attempt to get a bill.

I could not accept their return offer either, which was to benefit these distant family immigrants and penalize the skilled immigrants. I found that unaccepable. I am willing to consider any additional offers that the House has to make on this issue, and I expect to hear more from them before this session of the Congress ends. I myself intend to make another proposal which does not in any way uphold the sunset aspect of their provision but it does allow to take place what I think they want to obtain.

So we will see what happens. But I just wanted to state that, and that was last night and it certainly does not come from any goading from the minions of the denizens of the Wall Street Journal. I was fascinated at this editorial today in the Wall Street Journal—and it is not a bad picture actually—it is pretty good except for the picture of the Statue of Liberty with the great round circle and the slash. I was really intrigued by that because, as I did my hard work on illegal immigration, I went all over the United States to visit with the editorial boards of the great papers in this country the New York Times, the Los Angeles Times Mirror, San Diego, Washington, DC, and around the horn, telling the story of why I thought we needed to get our borders under control.

When I met with the editorial board of the Wall Street Journal in their great paneled enclave up there in New York City, this old Wyoming boy wandered in and they all sat there with vacuous looks, and I began my pitch. I said, "let me tell you about illegal immigration in this country and what it is and what we are trying to do."

After about 20 minutes with this remarkable group, with their eyes glazed over and while yawning and scratching themselves and looking out the window, I said, "I do not know if anybody is paying any attention here. This is the first time I have seen this reaction throughout the United States." And one worthy turned and said, "Simpson, I live in Teaneck, NJ, and I drive in every morning in my car driven by somebody else, and I have never seen an illegal, undocumented person in all my travels."

And I said, "I can't believe it." I said, "Just give me my hat and coat and I'll head out on the street in a moment." I also said, "that is the most absurd statement I have ever heard."

I sat for a few more minutes and they seemed to summarize that "There are no illegal, undocumented persons. But if there were, they would be good for this country." I said, "Well, you know, I want to get out of the building before I say something that I would really regret."

And what I was going to say then, I will say now. If the Wall Street Journal is criticizing me on immigration matters, then I must be doing something right, because they are the one newspaper in America that is so solely and totally out of touch with immigration activities that there is no recourse but to share my personal views.

I will tell you what the Wall Street Journal supports. They want a five-word constitutional amendment that says, "there shall be open borders." That is what they want. The absurdity and vacuity of that position says it all. No person responsible to the American public, certainly the voting public, would support such a dangerous and outrageous proposal. So when the Journal criticizes me for supporting only a 35-percent increase for legal immigration, we must remember where they are coming from.

And here is what I really wanted to say to them then, but would say now. Where that would lead us would be to a defenseless America without any security of its borders whatsoever. Absolutely stupid. No one would be checked. No checking of the flow of immigration, no checking the flow of people, no checking the flow of aliens, immigrants, refugees, nothing; it would matter not whether they were spies, saboteurs, whether they were malcontents, terrorists, anybody. No restrictions. That is their pitch. Do not miss it.

But what they really want is the most ugly thing. They want an unlimited supply of cheap labor for the employers of the United States. That should put their position in perfect perspective. And I think it is good that right now on our television screens last week you watched a remarkable, beautiful documentary on a tragic event called the Civil War. And the Civil War arose from the fact that some people wanted cheap, subservient labor.

Finally, the Journal tries to lump me into David Duke's camp of anti-immigrant mentality. Now get that bit of stupidity. For a guy who proposed a 35-percent increase in legal immigration, is that anti-immigrant? Lumping me with David Duke is about the most offensive and ridiculous thing that I could ever imagine and shows the bone-headedness of the editorial staff of the Wall Street Journal.

Here is a man, David Duke, who has been repudiated by our party, and I personally repudiate all that he stands for with regard to what he says he would do. It shows once again how desperate and dedicated this singular, misguided, and remarkable paper is to have more low-wage, unskilled, slave-type laborers who will call the Journal editors, "master." I am not in favor of that condition.

The other thing I was going to say that day was, after one of those people in that room that day at the Wall Street Journal said, "Your bill would not affect domestic help, would it, Simpson?" I said, "Yeah, it would." "Oh," they said, "That is most unfortunate, because I have this marvelous, marvelous person—an illegal alien—who is in our home. She is a lovely lady, Patsy. She is like one of the family."

What that phrase means in the vernacular of the Wall Street Journal is, "one of the family" means that we pay her 50 bucks a week and give her every other Sunday off and she looks like she has been on a forced march. That is what they mean by that stuff, "one of the family." They are illegal, they are there, and that is a good place to keep them because it is cheap; and if it is cheap that is good for America and good for business—good for employers.

So, I just thought I would touch upon that. I do not think that is very helpful in America when you have a fine business chronicle, an American employer, business chronicle preaching from the housetops for cheap, cheap, unskilled slave-type laborers without any restriction whatsoever in their coming here legally or illegally.

Then, of course, finally, the editorial went on to state that I am apparently a racist, which is so stupid and arrogant and dull-witted that I should not comment on it. But I will. I will tell you that, not only is that abhorrent and offensive to me, but it goes back again to the real truth. The Journal's editorial board really longs for the good old plantation days where workers were subservient, hardworking, and feared the sting of the lash. That is what they like. They have "never seen" an illegal alien right in their own city where they commute to work—from outside the city, most of them.

So the Journal wants to return to those days with open borders immigration. That is not my vision of America's future.

I continue to sincerely believe that we must close the back door to illegal immigration, and if we do that, then we can open the front door wider to

legal immigration. That was the view of Father Ted Hesburgh, the Chairman of our Select Commission on Immigration and Refugee Policy.

So, we will close up the legal immigration shop for a while, and see where we go. I would also like to deal with illegal immigration controls. They mentioned that in the piece. I hope we do that.

We need employer education programs. We need structuring to deter illegal entry at key locations on U.S. borders. We need a more secure driver's license. California is doing that now on their own and civil libertarians are not objecting. We need civil penalties on document fraud and we need an annual attorney general report on illegal immigration. Those are important things.

So watch closely in your local business newspaper, because you will not see much of my response in the Wall Street Journal because they love to dish it out, but when I come back at them with my side in a letter to the editor it takes them about 30 weeks for them to compound a reason why I should or should not, be allowed to respond.

It got so bad the last time I had to call my lovely friend Al Hunt, a really great guy, a remarkable friend, who is head of the Washington bureau of the Wall Street Journal. I said "Al, just how do you get your side in that rag?" And he said, "Let me help you Al. He did."

Finally I got a call from some guy, somewhere, and he said, "Well, send us a few words, Simpson. We will try to publish it and give your views on the situation." They chopped that all to shreds and got it in there in about an inch and a half.

Another time some young reporter over there in the Journal did a number on me, I said, "That is a statement I never made." The higher ups then said, "Well, it was from one of our interns in Philadelphia and we don't know where she is anymore."

So they have a great operation there. I hope they do believe in the first amendment as they always prattle about it. And that marvelous amendment goes both ways.

So watch closely for my response. You may see it after Christmas! It will be my letter to the editor responding to one of the goofiest, stupidest, out-of-touch editorials I have ever seen.

Thank you very much.

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

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

## LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Labor-HHS appropriations bill, H.R. 5257.

Mr. ARMSTRONG. Mr. President, reserving the right to object, if the leader will yield to me briefly, I would just like to explain why earlier I asked Senator HUMPHREY to object to this unanimous-consent request on my behalf, because I was necessarily absent from the floor. But I wanted to express to the leader, and also the Republican manager, my appreciation for working it out so I could be present and to protect my opportunity to participate in the debate and consideration of this matter. I have no objection to the motion. I just wanted to acknowledge their gracious effort.

The PRESIDING OFFICER. The clerk will report the bill by title for the information of Senators.

The assistant legislative clerk read as follows:

A bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The PRESIDING OFFICER. Is there objection to immediate consideration of the bill?

There being no objection, the Senator proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5257

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

### TITLE I—DEPARTMENT OF LABOR

#### EMPLOYMENT AND TRAINING ADMINISTRATION

##### PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, **[**$70,030,000**]** *$71,480,000,* together with not to exceed **[**$54,751,000**]** *$54,301,000,* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

##### TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, **[**$4,136,447,000**]** *$4,035,188,000,* plus reimbursements, to be available for obligation for the period July 1, 1991, through June 30, 1992, of which **[**$58,193,000**]** *$64,000,000* shall be for carrying out section 401, **[**$69,047,000**]** *$75,000,000* shall be for carrying out section 402, $9,345,000 shall be for carrying out section 441, **[**$1,894,000**]** *$1,973,000* shall be for the National Commission for Employment Policy, **[**$2,500,000**]** *$6,000,000* shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $4,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, **[**$63,740,000**]** *$74,100,000* is appropriated for the Job Corps, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1991 through June 30, 1994;**]** *and in addition, $11,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

**[**For Job Corps program operations authorized by the Job Training Partnership Act, $10,500,000, in addition to amounts otherwise provided herein for these purposes, to be available for obligation for the period July 1, 1990, through June 30, 1991.**]**

##### COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $312,000,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $88,000,000.

##### FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, **[**$230,500,000**]** *$269,500,000,* together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

##### STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii),

212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); *and necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986,* [$25,600,000] *$23,100,000,* together with not to exceed [$2,800,400,000] *$2,836,046,000* (including not to exceed $2,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1991,] *and of which $18,882,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1991, through December 31, 1991, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523),* and of which $21,700,000 together with not to exceed $803,300,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1991, through June 30, 1992, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, *and of which $25,000,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1991 through June 30, 1992, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended,* and of which $247,509,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1991.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1992, $328,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $90,051,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1991, for such Corporation: *Provided,* That not to exceed $42,669,000 shall be available for administrative expenses of the Corporation: *Provided further,* That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $222,388,000, together with $1,016,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $322,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided,* That balances of reimbursements from Federal Government agencies unobligated on September 30, 1990, shall remain available for the payment of compensation, benefits, and expenses through September 30, 1991: *Provided further,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1991.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $918,796,000, of which $866,019,000 shall be available until September 30, 1992, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $29,051,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $23,355,000 for transfer to Departmental Management, Salaries and Expenses, and $371,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, [$291,243,000] *$295,893,000,* including not to exceed [$65,220,000] *$67,220,000,* which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing *: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—*

*(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;*

*(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected*

*within a reasonable abatement period and for any willful violations found;*

*(3) to take any action authorized by such Act with respect to imminent dangers;*

*(4) to take any action authorized by such Act with respect to health hazards;*

*(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and*

*(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:*

*Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.*

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, [$177,767,000] *$179,823,000*, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, [$207,274,000] *$206,674,000*, together with not to exceed [$52,760,000] *52,210,000*, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including [$3,700,000] *$4,200,000* for the President's Committee on Employment of People With Disabilities, [$132,788,000] *$132,809,000*, together with not to exceed $285,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $172,031,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-10 and 2021-26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $45,713,000, together with not to exceed $4,195,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1991".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, [XVI, and XXVI] *X, XVI, XIX, XXVI, and XXVII* of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health Care Act of 1988, [$1,627,375,000] *$2,472,940,000*, of which $2,000,000, to remain available until expended, shall be available for renovating facilities related to the activities of the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, of which $488,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act [and of which $4,129,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients: *Provided*, That notwithstanding section 838 of the Public Health Service Act, not to exceed $10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act] *and of which $600,000,000 is available for part A and part B of title XXVI of the Public Health Service Act, including $441,000,000 which shall be available for obligation for the period October 1, 1991, through September 30, 1992: Provided, That notwithstanding any provisions of part B of title XXVI of the Public Health Service Act the Health Resources and Services Administration shall not reduce any current grantee below its fiscal year 1990 funding level: Provided further, That notwithstanding section 2602 (f) of the Public Health Service Act, up to $4,000,000 shall be made available until expended to make grants for renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients: Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further,* That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302: [*Provided further,* That during fiscal year 1991, the Secretary of Health and Human Services may enter into commitments of not to exceed $260,000,000 for fiscal year 1991 to guarantee Health Education and Assistance Loans under subpart 1 of part C of title VII of the Public Health Service Act:] *Provided further,* That none of the funds made available under this heading shall be used to carry out sections 638, 704 and 705 of Public Law 100-607.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $20,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $1,500,000 shall be available from the Trust Fund to the Secretary of the Department of Health and Human Services.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $62,920,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, [XVII, XIX] *VII, XVII, XIX, XXV, XXVII* and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal

Mine Safety and Health Act of 1977, *Public Law 101-354* and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, [$997,701,000] *$1,322,698,000* of which [$7,740,000] *$37,900,000* shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further, That $7,460,000 shall be available from amounts provided under section 2501 of the Public Health Service Act to directly fund the city health departments funded in fiscal year 1990 and $4,046,000 shall be available to directly fund the local education agencies funded in fiscal year 1990: Provided further, That of the total amount recommended for section 2501, no State or city health or education department shall receive less funds in fiscal year 1991 for the same programs than received in fiscal year 1990 funds, and for the purposes of formula calculation only, that these amounts awarded to cities shall be counted toward the mandatory pass through required of high incidence States by section 2506(5)(A): Provided further,* That collections from user fees may be credited to this appropriation: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further, That in addition to amounts provided herein, up to $20,000,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.*

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, [$1,749,392,000] *$1,747,462,000.*

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, [$1,135,589,000] *$1,137,235,000.*

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, [$149,592,000] *$151,057,000.*

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, [$613,686,000] *$626,986,000.*

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, [$545,225,000] *$555,488,000.*

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, [$944,965,000] *$904,010,000.*

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, [$693,499,000] *$779,351,000.*

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, [$488,282,000] *$480,645,000.*

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, [$254,887,000] *$258,324,000.*

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, [$244,832,000] *$242,765,000.*

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, [$278,311,000] *$377,733,000.*

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, [$191,397,000] *$198,746,000.*

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, [$125,623,000] *$148,247,000.*

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, [$353,469,000] *$331,629,000*: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, [$37,289,000] *$40,013,000.*

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, [$66,131,000] *$108,264,000.*

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities of the John E. Fogarty International Center, [$18,682,000] *$17,436,000.*

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, [$80,725,000] *$94,916,000.*

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, [$106,175,000] *$77,975,000*, including purchase of not to exceed five passenger motor vehicles for replacement only: *Provided, That $15,000,000 of this amount shall be available for extramural facilities construction grants if awarded competitively: Provided further, That the funds for the AIDS Research Loan Repayment Program remain available through September 30, 1992: Provided further, That the Director may direct up to one percent of the total amount made available in this Act to all National Institutes of Health appropriations to high-priority activities the Director may so designate: Provided further, That no such appropriation shall be increased or decreased by more than one percent by any such transfers and that the Congress is promptly notified of the transfer.*

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, [$239,903,000] *$68,803,000*, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, section 621 of Public Law 100-628, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, [$2,825,891,000] *$3,000,283,000*, of which $3,126,000 for renovation of government owned or leased intramural research facilities shall remain available until expended *and of which $5,000,000 shall be available for grants for the construction, renovation, operation and maintenance of research facilities*: *Provided*, That funds available under this heading for block grants under subpart 1, part B of title XIX of the Public Health Service Act shall be expended by States in accordance with the same criteria and limitations as were applied to such grants for the fiscal year 1990.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $12,000,000, which shall be available in fiscal year 1991 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided*, That any amounts determined by the Secretary of

Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, [$61,270,000] *$67,192,000*, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and Part A of title XI of the Social Security Act, [$68,579,000] *$91,335,000* together with not to exceed $5,000,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,037,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed [$13,776,000] *$40,776,000*.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, [$34,614,966,000] *$36,881,301,000*, to remain available until expended.

For making, after May 31, 1991, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1991 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1992, [$12,400,000,000] *$13,500,000,000*, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, [$37,056,000,000] *$35,335,000,000*.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 4005(e) of Public Law 100-203, as amended, [$104,966,000] *$91,053,000*, together with not to exceed [$2,026,638,000] *$1,901,888,000* to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That $136,500,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further*, That all funds collected in accordance with section 353 of the Public Health Service Act are to be credited to this appropriation to remain available until expended: *Provided further, That notwithstanding any other provision of law, including but not limited to sections 1903 and 1919(g) of the Social Security Act, the Secretary shall establish and collect annually user fees from all providers and suppliers of services or items requesting certification under titles XVIII or XIX of the Social Security Act (except clinical laboratories otherwise inspected and certified under section 353 of the Public Health Service Act) and payment thereof shall be made a condition of participation under said titles. Such fees shall be determined annually in an amount sufficient to cover the estimated full cost of survey and certification activities not otherwise covered by fees collected pursuant to section 353(m) of the Public Health Service Act. These fees shall be collected annually from each provider or supplier, regardless whether the provider or supplier will be surveyed in the year for which fees are being charged, and fees may be collected through deductions from payments to be made under titles XVIII and XIX of the Social Security Act. Fees may vary by group or classification of provider or supplier, or by the relative complexity, type, or estimated cost of planned surveys, based on such considerations as the Secretary deems appropriate. Such fees shall be deposited in and credited to this appropriation, to remain available until expended.*

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $46,958,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $626,081,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1992, $203,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, [$12,001,594,000] *$13,954,618,000*, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided*, That all collections from repayments of overpayments shall be deposited in the general fund of the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1992, $3,550,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than [$4,166,974,000] *$4,316,974,000* may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That [$50,000,000] *$200,000,000* of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds ap-

propriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), [$9,657,246,000] *$10,172,346,000*, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1992, $3,300,000,000 to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, [$1,000,000,000] *$1,006,500,000: Provided That, of the amounts made available, not less than $6,500,000 shall be made available for section 505 of the Family Support Act of 1988.*

*LOW INCOME HOME ENERGY ASSISTANCE*

*For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,450,000,000, of which $74,610,000 shall become available for making payments on September 30, 1991.*

*ENERGY EMERGENCY CONTINGENCY FUND*

*For the purpose of establishing an "Energy Emergency Contingency Fund", in the United States Treasury to be available for grants to the 50 States, the District of Columbia, and Indian tribes and tribal organizations receiving direct funding in fiscal year 1991 under the Low-Income Home Energy Assistance Act of 1981, $200,000,000 which shall be available for obligation after January 15, 1991: Provided, That the national average retail price of home heating oil in any of the months December 1990, January 1991, or February 1991, as reported for Petroleum Marketing Monthly by the Energy Information Administration or the best available data from the Department of Energy on the last day of the month following such month, exceeds by 20 per centum or more the average of the national average retail price for home heating oil for the corresponding month as reported by the Department of Energy for 1986, 1987, 1988, and 1989: Provided further, That these funds shall be allotted to the 50 States and the District of Columbia in proportion to the consumption by low-income households in such jurisdiction (determined on the basis of the best data available at the time of allotment) of home heating oil: Provided further, That for allotment purposes only, home heating oil includes liquified petroleum gas and kerosene: Provided further, That Indian tribes and tribal organizations shall receive the same per centum of the allotment of the State or States in which they are located as they receive from that State's (or those States') allotment for fiscal year 1991 under section 2604 of the Low-Income Home Energy Assistance Act: Provided further, That no State which has transferred funds in fiscal year 1991 to another block grant under section 2604(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(f)) shall be eligible for emergency funding under this paragraph except that an Indian tribal organization which is otherwise eligible for emergency funding under this paragraph shall not be denied such funds by reason of such a transfer by the State within which that organization is located: Provided further, That this paragraph shall take effect upon the subsequent enactment into law of a joint resolution certifying the existence of an energy crisis and the need for emergency energy crisis assistance.*

*REFUGEE AND ENTRANT ASSISTANCE*

*For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $398,000,000, of which $210,000,000 shall be available for State cash and medical assistance.*

*INTERIM ASSISTANCE TO STATES FOR LEGALIZATION*

*Appropriations provided for fiscal year 1991 in section 204(a)(1)(A) of the Immigration Reform and Control Act of 1986 are reduced by $566,854,000.*

*The amount appropriated for fiscal year 1992 in section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 are increased by $579,034,000.*

*COMMUNITY SERVICES BLOCK GRANT*

*For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $448,300,000, of which $21,000,000 shall be for carrying out section 681(a)(2)(A), $4,200,000 shall be for carrying out section 681(a)(2)(D), $3,100,000 shall be for carrying out section 681(a)(2)(E), $11,100,000 shall be for carrying out section 681(a)(2)(F), $250,000 shall be for carrying out section 681(a)(3), $4,150,000 shall be for carrying out section 408 of Public Law 99-425, and $2,500,000 shall be for carrying out section 681A with respect to the community food and nutrition program.*

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, and section 126 and titles IV and V of Public Law 100-485, [$81,200,000] *$84,200,000*, to be reduced by such sums as may be collected, which shall be credited to this account as offsetting collections, from fees authorized under section 453 of the Social Security Act: *Provided*, That funds appropriated in Public Law 101-166 for the Commission on Interstate Child Support shall remain available through September 30, 1991.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,800,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, *the Developmental Disabilities Assistance and Bill of Rights Act, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985*, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native American Programs Act, title II of Public Law 95-266 (adoption opportunities), section 206 of the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Centers Act of 1988, the Abandoned Infants Assistance Act of 1988, section 10404 of Public Law 101-239 and part B of title IV and section 1110 of the Social Security Act, [$1,423,217,000] *$3,500,528,000*, of which $1,000,000 shall remain available until expended for the 1991 White House Conference on Aging.

*For carrying out title I of S. 5 as passed by the Senate, the Act for Better Child Care, $1,200,000,000, of which $1,159,000,000 shall be available for obligation September 15, 1991, and of which $41,000,000 shall be available for obligation October 1, 1991.*

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, [$2,632,192,000] *$2,611,281,000*, of which [$544,000,000] *$520,911,000* shall be for payment of prior years' claims.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, [$82,250,000,] *$75,500,000* of which $20,995,000 shall be available for expenses necessary for the Office of the General Counsel, together with [$31,950,000,] *$28,950,000* of which $26,881,000 shall be available for expenses necessary for the Office of the General Counsel, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $53,500,000, together with not to exceed $43,723,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,585,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, [$9,167,000] *$8,167,000*: *Provided*, That not less than $3,150,000 shall be obligated to continue research on poverty *conducted by the Institute for Research on Poverty.*

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 202. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS–18.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term] *; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy*] *: Provided, That the Secretary of Health and Human Services shall promulgate regulations governing this section.*

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 206. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 207. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 208. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 211. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 212. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 213. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $120,000 per year.

SEC. 214. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

*SEC. 215. Section 402(a) of 42 U.S.C. 286 is amended by inserting after "by and with the advice and consent of the Senate", for a fixed term to expire five years after the onset of the term of the appointing President.*

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1991".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, [except subpart 2 of part D,] and by section 418A of the Higher Education Act, [$6,225,250,000] *$6,376,674,000*, of which [$6,195,750,000] *$6,350,029,000* shall become available on July 1, 1991 and shall remain available until September 30, 1992: *Provided*, That [$5,121,000,000,] *under the Elementary and Secondary Education Act, $5,130,000,000* shall be available for basic grants under section 1005, [$569,000,000] *$570,000,000* shall be available for concentration grants under section 1006, [$310,000,000] *$293,742,000* shall be available for migrant education activities under subpart 1 of part D, *$152,537,000 shall be available for handicapped education activities under subpart 2 of part D,* [$34,000,000] *$40,000,000* shall be available for delinquent and neglected education activities under subpart 3 of part D, $60,600,000 shall be for State administration under section 1404, and $15,150,000 shall be for program improvement activities under section 1405.] *Provided further, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: Provided further, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404.*

[From the amounts appropriated for part A of chapter 1, an amount not to exceed $100,000,000 may be obligated to carry out a new Merit Schools program only if such program is specifically authorized in law prior to December 31, 1990.]

*Notwithstanding the provisions of section 1006(a)(1)(A) of the Elementary and Secondary Education Act, local educational agencies in any county that has the largest number, among all counties in the same State, of children counted under section 1005(c) for the preceding fiscal year shall be eligible for the additional grants authorized in section 1006. In determining the amount of the additional grants that local educational agencies in counties eligible solely because of this provision will receive, the number of children counted will be the*

*number counted under section 1005(c) for the preceding fiscal year, notwithstanding the provisions of section 1006(a)(2) and (3). Notwithstanding the provisions of section 1006(a)(5), in allocating grants to local educational agencies in a county receiving additional grants under this provision, a State educational agency shall give priority consideration to the local educational agency in that county with the largest number of children counted under section 1005(c).*

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81-815 and 81-874, as amended, $800,000,000, of which [$600,000,000] *$610,000,000* shall be for payments under section 3(a), [$140,000,000] *$130,000,000* shall be for payments under section 3(b), $14,000,000, to remain available until expended, shall be for disaster assistance payments under section 7, $17,000,000 shall be for Federal property payments under section 2, $2,000,000, to remain available until expended, shall be for payments under section 3(e) related to shifts in enrollment and $27,000,000, to remain available until expended, shall be for construction and renovation of school facilities including $10,000,000 for awards under section 10, $10,000,000 for awards under sections 14(a) and 14(b), and $7,000,000 for awards under sections 5 and 14(c): *Provided,* That, of the amounts appropriated for payments under sections 3(a) and 3(b), not to exceed $25,000,000 shall be available for payments under section [3(d)2(b)] *3(d)(2)(B): Provided further, That any school district that received a payment under section 5(b)(2) of the Act for fiscal year 1986, but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the Federal property, shall be deemed eligible for payments under section 2.*

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, and VI, *without regard to sections 5112(a) and 5112(c)(2)(A),* of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; and chapter 5 of subtitle A of title VI of Public Law 100-418; *the Follow Through Act; and title IX of the Education for Economic Security Act,* [$1,529,045,000] *$1,684,499,000,* of which [$1,148,164,000] *$1,242,490,000* shall become available on July 1, 1991, and remain available until September 30, 1992: *Provided,* That of the amount appropriated, $1,000,000 shall be for an evaluation study of the chapter 2 block grant program, [$3,000,000 shall be for research on dropout prevention,] and [$33,900,000] *$35,914,000* shall be for national programs under part B of chapter 2; *$6,064,000 shall be for section 5133 and $1,213,000 shall be for section 5134 under title V of the Elementary and Secondary Education Act of 1965; $15,000,000 shall be for national program activities under section 2012 and $222,000,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act of 1965; and $7,465,000 shall be for the Follow Through Act for fiscal year 1991; $4,830,000 shall be for grants for schools and teachers under subpart 1 and $3,871,000 shall be for family-school partnerships under subpart 2 of part B of title III of Public Law 100-297: Provided further, That of the amounts appropriated herein, $2,000,000 shall be available for the National Writing Project, contingent upon enactment of authorizing legislation.*

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, [$205,000,000] *$196,779,000,* of which [$42,000,000] *$31,913,000* shall be for training activities under part C of title VII *including not more than $3,000,000 for the support of not to exceed 300 fellowships under section 7043.*

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, *as further amended in 1990,* [$2,747,730,000] *$2,253,503,000,* of which [$2,400,000,000] *$1,625,125,000* for section 611, [$257,730,000] *$300,000,000* for section 619, and [$90,000,000] *$120,000,000* for section 685 shall become available for obligation on July 1, 1991, and shall remain available [until] *through* September 30, 1992.

REHABILITATION SERVICES AND [HANDICAPPED] *DISABILITY* RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100-407, and the Helen Keller National Center Act, as amended, [$1,851,911,000] *$1,903,862,000,* of which [$17,455,000] *$20,188,000* shall be for special demonstration programs under sections 311 (a), (b), and (c), *including $1,000,000 for support of projects to serve low-functioning deaf adults.*

SPECIAL INSTITUTIONS FOR [THE HANDICAPPED] PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), [$6,076,000] *$6,500,000.*

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), [$37,531,000] *$38,495,000,* of which [$336,000] *$500,000* shall be for the endowment program as authorized under section 408 and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $74,047,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,500,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

[For carrying out, to the extent not otherwise provided, the Adult Education Act, the Stewart B. McKinney Homeless Assistance Act, and the Omnibus Trade and Competitiveness Act of 1988, $245,000,000 which shall become available for obligation on July 1, 1991, and shall remain available until September 30, 1992, of which $3,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384 of the Adult Education Act and $1,000,000 shall be for technology education demonstrations under title VI, subtitle B, chapter 2 of the Omnibus Trade and Competitiveness Act of 1988.]

*For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, the Stewart B. McKinney Homeless Assistance Act, the Omnibus Trade and Competitiveness Act of 1988, and S. 1310 as passed by the Senate on February 6, 1990, $1,244,879,000 which, unless otherwise provided, shall become available for obligation on July 1, 1991, and shall remain available through September 30, 1992: Provided, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $7,500,000 shall, notwithstanding section 3(d)(2) and the funding distribution requirements of section 3(d)(1)(G), be for community education employment centers under title III, part G, subpart 1; $3,600,000 shall be for tribally controlled postsecondary vocational institutions under title III, part H, of which the Crownpoint Institute of Technology in Crownpoint, New Mexico shall receive $2,000,000 and the United Tribes Educational Technical Center in Bismarck, North Dakota shall receive $700,000; and $28,276,000 shall be for national programs under title IV, including $9,986,000 for research, of which $6,000,000 shall be for the National Center on Research in Vocational Education and $3,000,000, to remain available until expended, shall be for the national assessment of vocational education, $13,200,000 for demonstrations including $2,000,000 for literacy projects in State correctional institutions under section 420A, $5,000,000 for data collection, and $90,000, to become available on October 1, 1990 and to remain available through September 30, 1991, for regional meetings and negotiated rulemaking: Provided further, That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $3,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384: Provided further, That $988,000 of the total appropriated herein shall be for technology education demonstrations under title VI, subtitle B, chapter 2 of the Omnibus Trade and Competitiveness Act of 1988, and: Provided further, That $2,000,000 of the total appropriated herein shall be for commercial driver literacy under S. 1310 as passed by the Senate on February 6, 1990.*

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, [$6,777,000,000] *$6,873,950,000, which shall remain available through September 30, 1992, and* of which $113,000,000 shall only be available if such funds are necessary to pay a maximum grant of [$2,300] *$2,400* during the 1991-1992 program year, which shall be the maximum Pell grant that a student may receive: *Provided,* That notwithstanding section 479A of the Higher Education Act of 1965 [(20 U.S.C. 1001 et seq.),] *as amended,* student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and de-

termining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further,* That notwithstanding section 411F(1) of the Higher Education Act of 1965 as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further, That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965, no Pell grant for award year 1991-1992 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis: Provided further, That any institution participating in a loan program authorized under part B of title IV of the Higher Education Act of 1965 as amended, with a default rate, as determined by the Secretary, that exceeds 30 percent after award year 1990-1991 shall implement a pro rata refund policy that complies with minimum standards established by the Secretary in regulations, for any title IV student aid recipient who withdraws before the earlier of six months from the beginning of the course of study for which the assistance was received, or the date on which the student completes one-half of that course: Provided further, That notwithstanding sections 481(b) and 484 of the Higher Education Act of 1965 as amended, in order for a student to be eligible to receive any student financial aid authorized under title IV of the Higher Education Act of 1965 as amended, for award year 1991-1992, a student must have a high school diploma or its recognized equivalent, or, prior to enrollment in the course of study for which such assistance is sought, shall have secured a passing grade on a test of ability to complete successfully that course, and that the test shall be developed, administered, and graded by one or more organizations determined by the Secretary to be independent of the institutions using the test.*

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, [$3,900,000,000] *$5,381,422,000.*

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided for, titles I, III, IV, V, VI, VII, VIII, IX, X, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, [and the Library Services and Construction Act Amendments of 1984] *section 612(b) of Public Law 101-162, section 140 of Public Law 100-202, title XIII, part H, subpart 1 of the Education Amendments of 1980 and Public Law 101-300,* [$763,616,000] *$785,592,000,* of which [up to $27,500,000] *$17,893,000* for endowment activities under section 332 of part C of title III *of the Higher Education Act,*] *$300,000 for section 777* and $20,900,000 for interest subsidies under part D of title VII *of the Higher Education Act, $5,500,000 for section 612(b) of Public Law 101-162, $3,000,000 for section 140(a) and $1,000,000 for section 140(b) of Public Law 100-202 and $2,500,000 for Public Law 101-300* shall remain available until expended [, and of which $3,000,000 shall be for carrying out section 304 of Public Law 98-480: *Provided, That of the amounts provided herein, $750,000 shall be available for subpart 1 of part H of title XIII of the Education Amendments of 1980:* [*Provided,* That $8,627,000] *Provided further, That $9,500,000* provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further,* That $1,000,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements: *Provided further, That of the amounts provided herein, $5,000,000 shall be available until expended to carry out title III of H.R. 2666 as passed by the Senate, contingent upon enactment of authorizing legislation: Provided further, That of the amounts provided herein, $1,000,000 shall be available to carry out title II of the Educational Excellence Act, as passed by the Senate: Provided further, That of the amounts provided herein, $4,000,000 shall remain available until expended for an award for carrying out part B of title VII of the Higher Education Act.*

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), [$200,036,000] *$195,536,000,* of which [$3,000,000] *$4,500,000,* to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480), [and $6,000,000, to remain available until expended, shall be for emergency construction needs].

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1991, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided,* That during fiscal year 1991, gross commitments for the principal amount of direct loans shall be [$30,000,000] *$5,000,000.*

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $8,449,000, to remain available until expended.

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For necessary expenses to carry out section 405 and section 406 of the General Education Provisions Act, as amended, *and title IX of the Educational Excellence Act, as passed by the Senate,* [*$133,860,000*] *$139,726,000,* of which $4,000,000 shall be for the rural education program conducted by the regional laboratories which shall be in addition to the amounts carried forward from fiscal year 1990 for this purpose *and of which $5,000,000, to remain available until expended, shall be for the National Board for Professional Teaching Standards.*

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act, [$140,800,000] *$146,428,000* of which [$18,900,000] *$19,693,000* shall be used to carry out the provisions of title II of the Library Services and Construction Act which shall remain available until expended.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $331,000,000, *of which $125,000 shall be for an Office of Correctional Education as authorized by title VI, part A of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.*

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, [$49,900,000] *$50,900,000.*

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $25,800,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any

school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1991".

## TITLE IV—RELATED AGENCIES

### ACTION

#### OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, [$191,659,000] *$200,136,000*: *Provided*, That [$30,500,000] *$31,569,000* shall be available for title I, section 102. [and $2,245,000 shall be available for title I, part C.]

### CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1993, [$306,505,000] *$341,940,000*, of which [$46,940,000] *$66,940,000* shall be available for section 396(k)(10) of said Act: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

### FEDERAL MEDIATION AND CONCILIATION SERVICE

#### SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $27,705,000.

### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

#### SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,292,000.

### *JOINT STUDY COMMISSION ON POSTSECONDARY INSTITUTIONAL RECOGNITION*

*For salaries and expenses necessary to carry out the functions of the Joint Study Commission on Postsecondary Institutional Recognition as authorized by section 1206 of the Higher Education Act, as amended (20 U.S.C. 1145a), $1,000,000, to remain available until expended.*

### NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100-607, $3,000,000.

### *NATIONAL COMMISSION ON CHILDREN*

*For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203 as amended, $1,100,000, which shall remain available until expended.*

### NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

#### SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-845), $750,000.

### NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $400,000, which shall remain available until expended.

### NATIONAL COUNCIL ON DISABILITY

#### SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, [$1,200,000] *$1,750,000*.

### NATIONAL LABOR RELATIONS BOARD

#### SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, [$151,103,000] *$140,111,000*: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

### NATIONAL MEDIATION BOARD

#### SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,675,000.

### OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

#### SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,401,000.

### PHYSICIAN PAYMENT REVIEW COMMISSION

#### SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,871,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

### PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

#### SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, [$4,073,000,] *$3,869,000*, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

### RAILROAD RETIREMENT BOARD

#### DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, [$328,000,000] *$335,000,000*, which shall include amounts becoming available in fiscal year 1991 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided*, That the total amount provided herein shall be [credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year] *immediately credited to the account: Provided further, That the amount provided herein plus the interest earned thereon shall be available for payments through September 30, 1991.*

#### FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, [$100,000] *$400,000*, to remain available through September 30, 1992, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

#### LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, [$73,125,000] *70,200,000* to be derived from the railroad retirement accounts, of which $2,457,000 shall be available for the lease-to-purchase costs and contract services related to the installation of a mainframe computer only upon the delegation of procurement authority from the General Services Administration to the Railroad Retirement Board: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum ab-

sorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than [$15,909,000] *$15,420,000* shall be apportioned for fiscal year 1991 from moneys credited to the railroad unemployment insurance administration fund of which $433,000 shall be available for the lease-to-purchase costs and contract services related to the installation of a mainframe computer only upon the delegation of procurement authority from the General Services Administration to the Railroad Retirement Board.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than [$6,000,000] *$7,698,000,* to be derived from the railroad retirement accounts and railroad unemployment insurance account.

*SOLDIERS' AND AIRMEN'S HOME*

*OPERATION AND MAINTENANCE*

*For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $41,583,000: Provided, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.*

*CAPITAL OUTLAY*

*For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $11,500,000, to remain available until expended.*

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, [$8,000,000] *$9,200,000.*

*WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES*

*For carrying out activities under Public Law 100-382, $1,000,000.*

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act 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 this 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 the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 512. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 513. None of the funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the President of the United States certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

*SEC. 514. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $9,000,000; salaries and expenses of the Department of Education are hereby reduced by $5,000,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $50,000,000: Provided, That no trust fund limitation shall be reduced with the exception of the Social Security Administration, Limitation on Administrative Expenses, which is hereby reduced by $57,000,000.*

*SEC. 515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in the following accounts are a necessary (but secondary) result of significant policy changes: Training and Employment Services; State Unemployment Insurance and Employment Service Operations; Health Resources and Services; Low Income Home Energy Assistance; Interim Assistance to States for Legalization; and Human Development Services.*

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991".

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. The chairman of the Subcommittee on Labor, Health, Human Services, and Education is now on his way to the Senate floor. I think for the intervening moment or two, it would be the best procedure to await the arrival of Senator HARKIN.

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. SPECTER. 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. SPECTER. Mr. President, while we are waiting the arrival of Senator HARKIN, I think it appropriate to notify all Senators that the bill is proceeding and that we solicit any amendments because the majority leader has announced his intention to go forward on a Saturday session until we finish this appropriations bill and the appropriations bill on Foreign Operations. So that to the extent we can have cooperation of Senators, we would very much appreciate it and we would like to proceed with amendments so we are in a position to move to third reading at the earliest possible moment.

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. HARKIN. 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. HARKIN. Mr. President, the appropriations bill now before the Senate has gone through a long and careful process to reach the Senate floor.

In developing the legislation, the committee held 20 hearings, taking extensive testimony from administration witnesses, as well as from other 150 public witnesses. The priorities of the four authorizing committees that authorize programs included in this bill have been considered carefully, as have the letters and requests the committee has received from 99 of the 100 Members of the Senate. Every effort has been made in this legislation to accommodate the Members' interests.

Mr. President, the Subcommittee on Labor, Health, and Human Services, Education, and Related Agencies has a discretionary outlay ceiling of $53.534 billion. The bill now before the Members has been scored by the Congressional Budget Office and the Senate Budget Committee, and we are at the full outlay ceiling.

Amendments that Members would make to this bill would need to have outlay offsets to be in order under section 302(f) of the Budget Act.

The bill as reported to the Senate totals $183,334,110,000. Seventy-two percent of this total is for mandatory programs included in the jurisdiction of the subcommittee, such as Medicaid, Medicare, guaranteed student loans, and black lung benefits. The committee has virtually no control over these mandatory programs since reduction or expansion of the program benefits is under the jurisdiction of the several authorizing committees. The remaining $50.698 billion of the budget authority included in the bill is for discretionary programs under the subcommittee jurisdiction.

This legislation funds all the important health and human services programs, all the education programs, and all of the welfare assistance programs of the Federal Government. This appropriations bill has been called the people's bill because this bill funds programs to help the poor become self-sufficient.

It funds programs to find cures for disease and provide health care assistance to those who need it. This bill also funds the programs that help educate our young people.

There are never enough funds to meet the needs of these many critical programs. Nevertheless, in view of the fact that we had no amendments offered in subcommittee, and only on voice vote in full committee, I believe it suggests that the bill is well balanced.

I would like to give the Members a few highlights of the bill:

For AIDS we have included $2,184,955,000 or 41 percent more than last year. This is $561,607,000 more than the 1991 request and $518,234,000 more than the House. Included in these totals is $600,000,000 for the new AIDS care bill provided over 2 years. The 1991 total for the AIDS care bill is $159,000,000, with $49,000,000 of this total for emergency assistance for the 16 high impact cities.

Mental illness research is funded at a level of $491,000,000, which is $78,000,000 over the administration request.

I wish to express, Mr. President, my personal thanks to both Senators RUDMAN and DOMENICI for their efforts in highlighting the mental illness research effort, and for their help and support in getting these levels that are much needed for mental illness research.

We have also doubled all the funding in the bill provided for Alzheimer's research, bringing Alzheimer's research to a total of $305 million.

We are recommending $2,000,000,000 for the Head Start Program, which is $448,000,000 over the 1990 level and $114,000,000 over the 1991 request. Because this program is unauthorized, the House provided zero.

For the Low-Income Home Energy Assistance Program, we are providing $1,450,000,000, $400,000,000 over the administration request. Again because this program is unauthorized, the House provided no funding for LIHEAP.

For chapter 1 we are recommending just under $6,380,000,000, which is $1,000,000,000 over last year, $540,000,000 over the request for 1991, and $154,000,000 over the House bill.

For the Pell Grant Program the committee recommends $5,336,000,000, which is $430,000,000 over the 1991 request and $293,000,000 over the House bill. Unlike the House, we are recommending an increase of $100 in the maximum grant award level which has been frozen for the last 2 years.

Finally, for programs for the aging we are recommending $787,000,000 which is almost $65,000,000 more than the 1991 request and $6,000,000 more than the level recommended by the House.

These are some of the highlights. There are more. But instead of taking more of the Members' time, I would like to yield to Senator SPECTER for any opening statement he may have. Following Senator SPECTER's statement, we will be ready to answer questions or entertain any comments or amendments the Members may have.

Mr. President, before I conclude my remarks, I also wanted to recognize the staff who have worked long and hard on this bill over the year. As I said, we had no amendments in subcommittee, and only one voice vote in full committee, which indicates the staff worked very hard on both sides of the aisle.

On the majority side, Mike Hall, Jim Sourwine, Amy Schultz, Carol Mitchell, Terry Muilenburg, Nancy Anderson, and Sandra Kruhm; on the minority side, Craig Higgins and Bettilou Taylor, Robin Rosenkrantz, and Susan Steinkamp.

Also I want to say a special word of thanks to our editorial and printshop, who this year at our request got the hearing records published before we went to subcommittee markup. This is a real record that the subcommittee has not done in at least 20 years. For this good effort I want to thank Richard Larson, Bob Swartz, Clarence Erney, Bernie Babik, and Ian Reid.

Lastly, Mr. President, let me thank my good friend—and I mean that in every sense of the word—Senator SPECTER for all of his help in working on this bill, working closely with me, and his staff and our staff working closely together.

As I said, when we went to subcommittee, I do not think we spent probably more than an hour total on the bill in subcommittee, with no amendments, which indicates we had a very close working relationship on both sides of the aisle. Again I want to commend Senator SPECTER for his great leadership in getting a very difficult bill pulled together.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, I believe that the distinguished chairman of the subcommittee, Senator HARKIN, has accurately summarized the bill. This is a very important appropriations bill—Labor, Health, Human Services, and Education—because it encom-

passes a very broad range of important provisions.

Chairman HARKIN has outlined what we have done on a number of important issues: for example, AIDS, mental health, Alzheimer's disease, low-income energy assistance. We have made special efforts in expanded lines on lead-based paint, crack babies, infant mortality, capital expenditures for private schools, drug-free schools and communities, substance abuse treatment, literacy programs, mine safety and health administration, black lung, and in many, many others.

Regrettably, as we have moved through the allocation process, we simply have not had enough money to do as many things as we would have liked to do. One of the items taken up, the single item at the full committee, was the allocation to AIDS. We are still searching for ways to provide more funding for that catastrophe which has struck the Nation.

We are in a difficult position, Mr. President. We are at 7 minutes after 1 on a Friday afternoon. We have a bill to be considered. There are amendments to be offered. So I will not take any more time with any additional comments.

I do thank and commend the chairman, Senator HARKIN, for his diligent work on this bill. It is not an easy matter to make the allocations when there are so many people in America who have so many needs in the fields of labor, health and human services, and education.

Senator HARKIN has commended the staff by name, and I think that is most appropriate, and he has added commendations to the printers as to what they have done.

I conclude by urging our colleagues to come to the floor promptly. I have discussed with the majority leader on other occasions, when he sent out a letter early this year asking for recommendations, that we ought to go to third reading at an early time once Members are on notice that the floor is open for amendments. I think there is no better time to emphasize that than on a Friday afternoon when we have been waiting in the wings for this bill and the Foreign Operations Subcommittee bill with a Saturday session possible.

So I hope we can move quickly to do the will of the Senate and move this appropriations process forward swiftly.

Mr. ADAMS. Mr. President, if they ever gave a Nobel Prize for the creative use of a 302(b) allocation, it would go to TOM HARKIN. My appreciation for his work in crafting fiscal year 1991 Labor, HHS, Education and related agencies appropriations bill is enhanced by the reality that he received over 1,000 requests from 99 Senators.

As a member of the Labor, HHS Subcommittee, and as chairman of the Labor Committee's Subcommittee on Aging, and of course 1 of the 99, I am pleased that the bill, and accompanying report language, includes a number of items that I sought and believe to be very important to the well-being of the Nation's women and older citizens.

I am particularly pleased with the funding levels for programs under the Older Americans Act [OAA]. These critical programs, such as congregate and home-delivered meals, transportation to health and social services, in-home long-term care services, legal assistance, and others are critical particularly to low-income, minority, and other vulnerable older Americans. OAA programs have gone too long without a meaningful increase in funding. In light of the demographics of a rapidly aging society, the OAA's ability to keep pace with the needs has fallen steadily and harmfully behind.

The bill also includes important language addressing the needs of older women, particularly in programs under the National Institute of Aging [NIA]. The Baltimore Longitudinal Study on Aging, funded by the NIA, has been studying the aging process for over three decades. Yet in 1984 when they reported their findings, they didn't include women—despite the fact that women had been part of the study since 1978. My language will remedy that. It calls for the Department of Health and Human Services to publish a report summarizing the findings of more than 90 independent studies including women, discuss the implications of gender on the aging process, and make recommendations for future research on aging issues of concern to women.

We have also successfully included $2 million for the establishment of an office of women's health research at NIH to provide leadership in the area of women's health. Among the responsibilities of the office will be to monitor the inclusion of women in clinical research trials. As the sponsor of the Clinical Trials Fairness Act which requires NIH to do this, I am very pleased to see that the office has received funding to monitor and direct research on health issues of concern to women and to make sure women are included in all appropriate research trials.

I am also pleased that the committee has included $600,000 for the National Institutes of Health [NIH] to contract with the National Institute of Medicine to conduct a study which focuses on women's health research and includes recommendations on how research on women's health may be better addressed. Also of great significance is the committee's support for NIH to establish a clinical service in ob/gyn and an intramural research program in gynecology and obstetrics within the National Institute of Child Health and Human Development. To me it is unbelievable that this does not already exist, but since it does not I am very thankful that my colleagues have seen fit to support such a program now.

The many people who are affected by interstitial cystitis [IC], and I have been in close contact with individuals in my home State who suffer from IC, will be happy to hear that an additional $2.5 million is provided in the Senate bill to fund research on this debilitating bladder disease which mainly affects women. The new funds are to be used toward the establishment of a national IC registry and to support IC research solicited through a request for applications specifically for this disease in fiscal year 1991.

I have only several last items that I would like to mention. Enough cannot be said about the importance of the funding provided in this bill for infertility and contraceptive research centers. As I understand it, this bill will provide the funds needed to launch five new research centers, two of which will focus on infertility and three to focus on contraceptive research. The committee also provided $10 million to fund the Mikulski-Waxman breast cancer screening bill to prevent breast and cervical cancer mortality.

The bill before us is a breath of fresh air with regard to research on key health issues. As a person who not only is deeply committed to research but also as one who has experienced the terrible tragedy of Alzheimer's disease in my family, I am particularly delighted with the significant increase slated for the NIA for research on Alzheimer's disease.

I urge my colleagues to support this important measure.

Mr. BYRD. Mr. President, today we are considering H.R. 5257, the Labor, Health and Human Services, Education appropriations bill for fiscal year 1991. This measure provides necessary funding for the programs of the Departments of Labor, Health and Human Services, and Education, and 20 related agencies, including the Corporation for Public Broadcasting and the Railroad Retirement Board.

Among the activities funded by the bill are: biomedical research, Head Start, black lung benefits, administrative costs of the Social Security and Medicare programs, various public assistance entitlement programs, higher education, and compensatory education.

The bill as recommended by the Committee of Appropriations provides total obligational authority of $183,334,110,800. This represents an increase of $11,597,599,000 above the President's request and an increase of $12,659,668,000 above the House-passed bill. I note that some

$6,666,646,000 recommended by the Committee was not considered by the House. I further note that of the amount recommended, some $50.7 billion is for discretionary activities. The remainder is for programs that are mandatory under existing law.

With respect to the subcommittee's 302(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I commend Senator HARKIN, chairman of the subcommittee, and Senator SPECTER, the ranking minority member, for their excellent work in meeting the priorities of the Senate within the constraints of the budget agreement. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations.

I also wish to commend the staff of the subcommittee: Mike Hall, Jim Sourwine, Carol Mitchell, Amy Schultz, Terry Muilenburg, Craig Higgins, Bettilou Taylor, Nancy Anderson, Sandra Kruhm, Robin Rosencrantz, and Susan Steinkamp.

The managers have explained in much greater detail the contents of the measure as recommended. The bill as reported by the Appropriations Committee deserves the support of the Senate.

Mr. HARKIN. Mr. President, it is my understanding that the Senator from Colorado [Mr. ARMSTRONG] has an amendment that he wishes to offer, again, as I understand it, to page 43, line 25. I ask for his attention on this.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the amendment on page 43, line 25, and that we move to that right away, that the Senator from Colorado be recognized to offer an amendment right away.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I wonder if my friend from Iowa would be willing to rephrase slightly his unanimous-consent request in accordance with our earlier discussion, that we move to the consideration of the proposed committee amendment that begins on page 43 but withhold the other portion of his request for the time being that is, the part that says the other amendments will be considered en bloc and agreed to.

Mr. HARKIN. Mr. President, I would be willing to do that. I understand the Senator has an amendment to offer to that. It would be this Senator's intention however, if we could go to regular reading of the amendments in order, since the Senator is on the floor and trying to expedite things. We will move to that, after which time I would hope that we might return back to the regular order of the amendments after that, and move through those very rapidly.

The PRESIDING OFFICER. The Chair would interpret the Senator's unanimous-consent request as to take up the amendment by the Senator from Colorado first, and then to renew a request for treatment en bloc of the remaining amendments after the disposition of this amendment.

Mr. ARMSTRONG. Mr. President, actually, I think his request was to consider that committee amendment at this time which would then be open to amendment by the Senator from Colorado.

Mr. HARKIN. Mr. President, right now, I do not have to ask anything. The Senator from Colorado can go ahead and amend right now if he wants to, I believe.

I yield the floor.

The PRESIDING OFFICER. The Chair reminds the Senator that the pending question, without a unanimous-consent request, is the first committee amendment on page 2, line 5.

Mr. ARMSTRONG addressed the Chair.

Mr. HARKIN. Mr. President, I ask unanimous consent that we proceed to the committee amendment on page 43, beginning on line 25.

The PRESIDING OFFICER. Without objection, that will be the order.

Mr. ARMSTRONG. Mr. President, I would like to express my appreciation to the Senator from Iowa for helping me to expedite consideration of my amendment in this way. I assure him that I will repay his kindness by seeking in every way to deal with this expeditiously. In fact, the amendment which I want to offer is neither complex nor unfamiliar to the Senate. I see no reason why it should take a lengthy debate. I appreciate his courtesy in arranging it in that way.

AMENDMENT NO. 2954

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

Mr. ARMSTRONG. 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 Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2954 to Committee Amendment on page 43, line 25.

Mr. HARKIN. 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 44, on line 8, change the period to a semicolon and add the following: "None of the funds contained in this Act may go to any entity receiving funding under this Act unless such entity certifies to the Secretary that it will not 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 by this subsection, except in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention. *Provided, however,* That such entity certifies to the Secretary that such notice shall 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 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. *Provided further,* That this section 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.".

Mr. HARKIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The 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. Mr. President, as all Senators know, and I think probably every parent knows, it is the well-established principle of law and medical practice that if a minor child is going to have a surgical procedure in almost any jurisdiction of the country, you have to have the consent of at least one parent.

If you are going to have an appendectomy, a tonsillectomy, whatever it might be, doctors and hospitals routinely check signals with the parent for the very obvious reason that, with respect to very young children, the children are really not in a position to exercise the proper judgment, and even with respect to teenage young people, the need for parents to be involved in that decisionmaking process is well established not only by law, as it is in I guess every State—I think it is in every State of the Union—but, more than that, just by the common sense realization that young people are not always in the best position to make that judgment about their own future and their own welfare.

That applies to not only surgical procedures, but to things like giving blood. As I understand it, the routine—I do not know whether this is so much sanctioned by law as just by long-standing custom—is when you go to give blood, if you are an emancipated minor child, as the law would de-

scribe such person, then in that event you have to have your parent's permission. You go down to the Red Cross to give blood, you have to have permission of a parent. Even if you go down to Tysons Corner Shopping Center, I think, to have your ears pierced—I will say I frankly cannot imagine why anybody, male or female, would wish to have their ears pierced, but I am told this is a fashionable thing to do among people of a certain age—if you do that, and you are a minor, in most places—not every place—you have to have permission of a parent.

That brings me to another kind of surgical procedure far more serious than giving blood or having your ears pierced, and indeed, far more serious than an appendectomy or even open heart surgery, and that is abortion.

Mr. President, Senators will not be surprised to learn that I am gravely concerned about the permissiveness of our country toward abortion. It is heartbreaking not only for the lives of the unborn children that have been sacrificed, which is a tragedy, and in my view a national calamity, but, in addition it is a tragedy for the effect on the parents of the unborn child, and the grandparents of the unborn child.

This amendment which I now offer does not forbid abortion. I say that because many Senators might, if they just casually happen to overhear a portion of this debate and knowing my sentiment in my heart and my conviction, might assume that I was offering an amendment to put an end to abortion. Indeed that is in my heart. I hope to live to see the day when our country will not perform abortions except under very, very unusual and rare circumstances. That is not what my amendment does.

My amendment says that in the event an abortion is to be performed by an entity or an organization which receives funding from this bill, that before an abortion is performed at least written notice must be given to one parent of a minor child 48 hours prior to her obtaining an abortion.

I have already pointed out that for any other kind of surgical procedure, even minor surgical procedures, you have to get parental consent. I am not even asking parental consent. I am not seeking first to outlaw abortion, nor am I seeking parental consent. All I am seeking is a very low-key form of parental notification, and even under some circumstances provide for a waiver of that.

But I make that point so that any Senator who may be wondering about circumstances of this amendment and how it would apply in real life should be on notice that this is not going to stop abortion.

This is not going to require that parents give permission for abortion. It is just going to say that they will be notified, and then only in those cases where the funding comes through an entity which receives money under this act. What happens in any private abortion clinic is beyond the scope of my amendment. And, also, I might say, what happens in any jurisdiction which has enacted parental involvement laws, even if they were contrary to the spirit or letter of what I have provided in my amendment, anything in those States are also exempted.

Mr. President, a State's interest in protecting the welfare of minors is well established by custom and tradition in our country, and I think Senators would like to know that some 35 States have enacted legislation with respect to parental involvement in the abortion process. I want to say, again, that in those States, to the extent that they have a valid existing law—some of the 35 who have passed laws do not have valid existing laws, because of court decisions or for other reasons—but in those States where there is a valid existing law, whatever it is, on parental involvement, my amendment does not affect any abortions performed in those States.

So we have a proposed amendment of very narrow scope, much less, honestly, than I would like to propose. But the reason I come forward with this narrowly defined proposal is really for two reasons, First, because we are dealing here with an appropriation bill, which is probably not the place to try to set broad-gauge policy, if we can do it in a more narrowly focused way, and deal with exactly what is before us. What we have before us, is the appropriation bill for the Department of Health and Human Services. So I am saying, with respect to money that comes through HHS, this amendment would apply at least in those States that do not have a valid existing parental involvement statute requiring parental notification, not consent.

Mr. President, I should note also, for the record, that my second reason for suggesting this exact language, is that the Senate is already on record in support of the principle of parental involvement. On September 26 the Senate adopted a similar amendment by a voice vote after an attempt to table the underlying provision was defeated on a rollcall of 43 to 54. So, for that reason, I am encouraged to think that maybe as the session draws to a close, it would not be a time to invent new language and new approaches, but to offer language we have previously accepted on the title X bill and make it applicable to HHS.

Mr. President, that is the crux and burden of my argument. I could certainly elaborate. I would be happy, if anybody wishes me to, to recite the statistics on abortions in Minnesota, where they have a similar parental involvement approach, or in the State of Massachusetts or elsewhere. My staff has briefed me, as you can tell, to recite not only what happened in the States, but also the Supreme Court decisions, scholarly articles, and other pertinent data. But I do not think Senators really require a great deal of additional explanation.

Let me sum it up. My amendment says that in those States that do not have parental involvement legislation, in those States where an abortion is proposed to be performed by an entity that receives money from this appropriation bill, not from any other, then in those instances, before the abortion is performed, the entity would be required to certify to the Federal Government that their policy is to provide a written notification to at least one person, not consent, but only that the parent be notified.

With that word of explanation, I am prepared to rest my case, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ARMSTRONG. Mr. President, I am somewhat taken by surprise that there is not a sufficient second. I would be happy to come forward and suggest the absence of a quorum and get 100 Senators over here so we can get a second, I assume. That is not the desire. I ask again for the yeas and nays.

Mr. HARKIN. If the Senator will yield, we were discussing this over here. This amendment, as the Senator pointed out, was just adopted here not more than 2 or 3 weeks ago, and since the will of the body has already been expressed here, we will go ahead and take it.

Mr. ARMSTRONG. Mr. President, ordinarily, that would be my desire and wish. In fact, if the Senator will recall, when we voted on this before, I was the one who suggested the final adoption be on a voice vote after a tabling motion. I have had requests from Senators that they want a chance to vote. There may be some Senators who voted on the tabling motion, in some way viewing it as a procedural vote, or for some other reason, who would like to have a chance to be recorded on this matter. At their request, I do ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN], is recognized.

Mr. HARKIN. Mr. President, this is an amendment that was offered 2 or 3 weeks ago to another amendment that was here on the floor and was adopted after a motion to table was made on the underlying amendment by Senator LIEBERMAN failed. The motion to table failed, and thus this amendment then carried on beyond that failed motion to table.

I have read this amendment by the Senator from Colorado. I did not much listen to his comments but I did read it. It is a parental notification amendment providing that none of the funds in this act would go to any entity receiving funding under this act unless such entity certifies to the Secretary that it will not provide an abortion for an unemancipated female—that is an interesting word—under the age of 18, until at least 48 hours after written notice of the pending abortion was delivered in the manner specified by this subsection, et cetera.

This Senator has long been in favor of some form of parental notification as long as there is some kind of judicial bypass in the situation where a young women might come from a broken home, or where a young woman might be a victim of rape or incest. There must be some leeway, and there must be some manner of providing something other than parental notification in those cases.

I read the amendment, and there is no exception to that. There is no exception in this amendment for rape or incest. So—and I hope Senators will pay attention to this when they come to vote on this—what this basically provides is, let us say you have a young woman who could be 17 years old. Let us take a young girl. Let us say she is 13 years old, comes from a broken family. Maybe the mother is not there. She is living with the father. The father could be a drug abuser, an alcoholic, sexually abusing his daughter. It happens every day in this country. Rape and incest are the two most underreported crimes in this country.

So let us say you have a young girl who is a victim of incest. She goes down to the Planned Parenthood clinic, or it could be another clinic that might be receiving title X funds. She is poor. She has no money. She goes down there because she thinks she is pregnant and finds out that she is a victim of incest; she wants to terminate the pregnancy.

What this amendment says is that they have to notify the very person responsible, her father, give him notification of this. I find that abnoxious. I find that just totally obnoxious. But there is no leeway in this amendment. It does not provide for any exceptions in that case.

We have a case that happened in Idaho last year, of a young girl who was a victim of incest. Before she could go across the State line to Oregon—because she could not get one in Idaho, she was going across the State line to Oregon to terminate her pregnancy—I think she was 13 years—her father found out that she was going to do that, and he shot and killed her. She was a victim of incest. When he found out she was going to get an abortion, he shot and killed her.

This amendment allows for no exceptions. It is cruel, it is heartless, it is uncaring, and it does not provide for the kind of compassionate and caring society that I want to see in this country. I am all for parental notification but there must be leeways, there must be bypasses, there must be opportunities for a young women who would find herself in that situation.

Again, the amendment provides for the delivery by mail. It has either to be delivered by the physician performing the abortion or an agent of the entity or be made by certified mail with a return receipt requested, which means the postal employees may only deliver the mail to the authorized addressee.

Let us take another case. You have a young woman, 17 years old—this applies to females under the age of 18. Let us say you have a young woman, 17 years old, who has been the victim of rape, comes from a broken home, is poor. She goes down to seek to terminate a pregnancy caused by a rape.

This amendment says they have to notify one of her parents or legal guardian. But maybe there is no one like that around. The mother is gone. The father could be off someplace. Perhaps there is no legal guardian. We have young kids all over this country sleeping on the streets, sleeping under bridges. There was just an article in my own Des Moines Register a few weeks ago about the young kids living in the woods. Because they have been sexually abused at home, parents on drugs, alcoholics, kids are living out in the streets.

For these young girls are the victims of rape, this amendment does not provide for any leeway. It says, either the doctor has to hand deliver it or it has to be by certified mail with return receipt requested, and the postal employee must deliver it to the parent or legal guardian.

What if there is no one there? Do you know what this amendment says to that young woman who is 17 years old, the victim of rape? It says "Tough luck. You thought you were out in the cold before, you are really out in the cold now. You do not have a choice. You have no choice. You have been the victim of rape and violence once. Forget it, you have to carry that child to term." That is what this amendment says.

That is why, Mr. President, this area of parental involvement ought to be left to the States. The States ought to decide the parameters of parental notification and parental consent.

Mr. SPECTER. Mr. President, will the chairman yield for a question?

Mr. HARKIN. I am delighted to yield.

Mr. SPECTER. The question which arises in my mind—and we have just been served with the notice of this amendment by the distinguished Senator from Colorado—is whether this amendment is constitutional under the opinion of Webster and the decisions since. I believe Justice O'Connor has held that there has to be some bypass provision which would have some alternative beyond the notification of the parent.

Perhaps I could best address that question to Senator ARMSTRONG. I regret that I do not have the answer myself. I have read the opinions but, as I said, I did not know that this was going to be presented at this time. I would be interested if that issue has been considered on the constitutionality question.

Mr. HARKIN. Mr. President, I ask unanimous consent to allow the colloquy to be engaged in by the Senator from Colorado and the Senator from Pennsylvania, provided I do not lose my right to the floor at such time as they finish the colloquy.

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

Mr. SPECTER. Mr. President, I direct that question through the Chair to the Senator from Colorado. I do not wish to press the point unduly because it is a technical legal question, but that is a matter of concern to this Senator.

Mr. ARMSTRONG. Mr. President, this is going to be one of the shortest colloquys we have ever had around here because sometime earlier in my legislative career I got out of the habit of trying to practice law on the floor of the Senate.

I do not know what the courts would do with it. It is a reasonable provision. It is a provision that is similar to what we have adopted previously. It is a provision that is similar to what has been adopted by two-thirds of the States of the country. I have not looked at the specific case that the Senator asked about, though I shall do so. That certainly is something that I would take into consideration.

However, I am familiar with some cases where the courts have said—in fact, at the right time I am going to

quote from at least one of them—where the courts have pointed out that the law assumes that parents would be involved in such decisions and presumes that parents act in the best interest of the child. They may not always do so and there are certainly some tragic exceptions to that. But certainly in the past courts have upheld things that are, at least to the common sense of the issue, analogies to this amendment.

Mr. SPECTER. I thank the distinguished Senator from Colorado. He has the advantages over me. He said that he has avoided the practice of law for many years since coming to the Senate. That is a luxury that this Senator cannot engage in. I am always involved in the practice of law. I have been doing it too long to do anything else.

But I raise the question—one raised by Justice O'Connor, who was the pivotal vote in the Supreme Court on the Webster case—that without some bypass procedure which would go to the Court, the requirement of notification of parents impinged on constitutionality. Justice O'Connor is one of the most sympathetic to the kind of interest the Senator from Colorado is pursuing.

Mr. ARMSTRONG. Will the Senator yield?

Mr. SPECTER. Yes.

Mr. ARMSTRONG. Is not the Minnesota case the Senator referred to quite different than this? As I recall, that was an issue where both parents had to be notified and give consent. That is quite different than the standard we are establishing here, which is notification, not consent and notification, of only a single parent.

Mr. SPECTER. Well, the Senator from Colorado may be correct. I am going to send for the opinion and see if I cannot shed some light on this issue before we finish our debate.

I thank my distinguished colleague for permitting the interruption.

The PRESIDING OFFICER. The Senator from Iowa retains the floor.

Mr. HARKIN. Mr. President, I also have a question about this notification. I just wondered if the Senator from Colorado could respond to my question about what happens to a young women who, as I said, was 17 years old, a victim of rape, finds herself pregnant, has no money, goes to a Planned Parenthood or other clinic, one that gets title X money, seeks to terminate her pregnancy and there is no parent or legal guardian? What would happen in a case like that? Is she just out in the cold? There is no parent. I mean the parents are gone. What would happen in a case like that? If the Senator could enlighten me, what would he do in a case like that?

Mr. ARMSTRONG. I would respond in two ways. First of all, if literally this person goes to a Planned Parenthood clinic, the chances are, not certainty, but the chances are that they would fall under the purview of the amendment we passed the other day on the title X bill. So to that extent it is not really before us in this legislation.

If it were before us in this legislation, let me say to the Senator from Iowa, if it were before us in this legislation, I think the answer is really quite simple in the case that you described. If a person were a minor who had no parent, presumably that person would be a ward of the State or an emancipated minor, and either case would not be covered by this amendment.

Mr. HARKIN. I do not understand what an emancipated minor is. This covers every young woman unemancipated under the age of 18. What does emancipated mean? This Senator does not understand what emancipated means.

Mr. ARMSTRONG. I apologize. Did the Senator have a further question?

Mr. HARKIN. Yes; this Senator would like to know, the Senator said that if you assume there was no parent, that that female would either be a ward of the State or emancipated. What is an emancipated woman under the age of 18? What does that mean?

Mr. ARMSTRONG. Well, it might be a married person.

Mr. HARKIN. Well, what if she was unmarried?

Mr. ARMSTRONG. Well, the legal status of young women falls into one of several categories, so far as I can see. A person is either a minor or is not. If you are not a minor, you are not covered. If you are a minor, you are either emancipated or you are not. If you are legally emancipated, you are not covered. If you are an unemancipated minor person that does not have any parent, then you are a ward of the State or some similar agency.

Mr. HARKIN. But the Senator put in the amendments age 18. Do not various States vary in the age of adulthood? Some States have 18, some have 21, but the Senator has said 18.

Mr. ARMSTRONG. Where does that appear?

Mr. HARKIN. It is in the amendment. It says unemancipated female under the age of 18. Some States have 21.

Mr. ARMSTRONG. Well, that is correct. But if the person who was seeking to have an abortion were an unemancipated minor who was over 18, they would not fall within the purview of this amendment.

Mr. HARKIN. They would still be a minor in the State but they would not fall under this amendment. Is the Senator just arbitrarily drawing the line at age 18? Why did not the Senator draw the line at 19 or 17?

Mr. ARMSTRONG. Well, if the Senator wants to offer an amendment to that effect, that would be all right. But 18 just seems a reasonable place. Eighteen is the voting age in many States. Eighteen is a threshold that has been used in many formulations. Some States have a higher standard, than that. I would not object to a higher standard, and I would not object to tying it to the standard of whatever the State was. In other words, if in a State a person achieves majority status at 21, I would not object to that.

This just seemed a reasonable place to draw the line in consideration of practical facts. I mean, what we are really talking about, if we are talking about youngsters under that age, in general we are talking about high school students, not in every case but in most cases. If you are going to talk about people who are 19, 20, 21, you are talking about people who have, in many instances, moved away from home and who really are emancipated even though they may legally be in minor status. That just seems to me to be the place to draw the line.

I would like to respond to the other question the Senator has raised, though I prefer not to further interrupt his statement and I will seek recognition when he has completed his statement just to respond to the issues he has raised.

Mr HARKIN. I think this colloquy shows that by drawing an arbitrary age of 17 leaves a lot of cloud over just who is covered and who is not

Again, I still do not understand what an emancipated young woman is, a female under the age of 18. I guess it is if they are married. Well, what about a young woman who is 17 who is not married, who is the victim of rape and there is no parent or legal guardian and she is not a ward of the State? I just do not know what happens in a case like that. It seems to me this amendment does not allow for any leeway there.

Again, this Senator is basically in favor of parental notifications. Quite frankly, I think it is best left to the States to decide and develop those parameters. The State of Maine has one that this Senator has looked at that provides for parental consent but it also provides for judicial bypass, and it provides for someone standing in loco parentis, someone standing in place of the parent, another adult, for example, or another counsellor, or someone standing in the place of an adult.

So, if you have a young woman who is the victim of incest, she does not have to go to the parent who committed the incest, she can go to another responsible adult to seek that kind of consent.

That is the kind of thing that ought to be involved in this. Not this kind of

heavy-handed, cold-hearted, uncaring and uncompassionate approach to very sensitive and very delicate situations.

I often wonder, Mr. President, instead of 98 men in this body and 2 women, if we had 98 women and 2 men whether we would be entertaining these kinds of amendments. I rather doubt it. It would be quite different. This really is insensitive.

There might be amendments drafted that would provide for parental consent that this Senator could support—if one had the necessary bypasses, if it had another responsible parent or another responsible adult who would be involved. But basically what this amendment really says is, if you are too poor to pay for your own termination of pregnancy, to pay for your own abortion, that even if you are the victim of rape or incest, forget about it. That is why, as I said, while the author of this amendment may have every good intention of having it apply as a parental notification, it is much more than that. It is much too strict. It does not allow for any leeway, as I just mentioned. Quite frankly, in that case, it is very fatally flawed as a parental notification amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado [Mr. ARMSTRONG].

Mr. ARMSTRONG. Mr. President, I think it is important for me to respond in some detail and in a thoughtful and low key way to the issues raised by the Senator from Iowa. I do not agree with the point of view which he has expressed, but I want to explain why, in a way that is respectful of his opinion and to be as courteous to him as he has been to me. I listened carefully to his statement. In fact, I made notes on it, and I would like to respond to it point by point.

First of all, he makes a point this amendment is utterly lacking in any provisions for leeway and bypass. That, in fact, is not the case. I direct the attention of my colleagues to the language which appears on the second page of the amendment which simply says, as one form of leeway or bypass, that this does not apply in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention.

Second, let me point out this amendment does not have general applicability. This does not say to the people of Iowa that no abortion may be performed in Iowa except if notice is given in accordance with this act. It just says it cannot be done in an entity that receives Federal funds.

I said at the outset—I do not confess, in fact I am not embarrassed to say—I want to end abortion. I think abortion is an extraordinarily cruel, barbaric practice. I think it is a practice which is almost intolerance in a civilized society. It is intolerable in a civilized society. A society which kills its young people cannot really be thought of in that sense as truly civilized.

But I know others hold a different point of view; not bad people; not, as someone has been characterized here today as uncaring and uncompassionate, but good people who, after much thought, much consideration, possibly after prayer, have decided that the unborn child is not really a human being. They have decided it is something less than that; that it is an organism, that it is an organ of the woman's body. Up until some point at least, up until point of quickening or birth, until some discrete instant it is not fully human and a human being with the rights every human being has. I do not agree with that point of view, but I respect the fact there are people who reach an opposite conclusion.

These abortion issues always seem to come down to that because, in the final analysis, if the fetus is not an unborn child, if that is not a living human being, then it is absolutely intolerable, Mr. President, to think the power of the State, of the Government, should be used in any way to any degree to interfere with the right of privacy and choice and freedom of the woman and those of her family and those who may be involved. If that is not a little baby, then count me out when it comes to restricting or controlling or regulating or doing anything else about abortion.

But if it is a child, if that is really a child with all that that implies, a helpless, defenseless human person, then we have to do something about it.

There might be somebody—frankly, I have never met such a person—who was simultaneously willing to say that is a baby, that is a human person, and yet was nonetheless very permissive about abortion. I never met even one such person, and if there are such persons I am ready to be corrected.

The fault line always seems to come down to this: Either the unborn fetus is or is not a person. If you think it is a person as I do, based upon the overwhelming weight of scientific evidence, of discussions with mothers, discussions with women who would have been mothers were it not for abortion—if you are convinced that those are babies, then the 1½ million annual abortions in this country are lost human lives, innocent human lives that we are duty-bound, obligated, honor bound to protect.

Even so, my amendment does not do that. My amendment does not forbid even one abortion. Certainly, in Iowa or Colorado or anyplace else, we are not saying to a person who finds themselves in the circumstances which were so eloquently and graphically described by the Senator from Iowa, we are not saying you cannot have an abortion. We are not saying you have to give notice. We are saying you cannot have an abortion performed in a facility that gets funds under this bill. So there is a bit of leeway and there is quite a bit of bypass in it.

I now want to move to the second point the Senator raised and one which is really heartbreaking if we think about it, and there is the question of what about parents who abuse their children?

That does not happen very often. But there are cases where, tragically, one or both parents abuse their children. What should a medical facility do when a young woman presents herself and asks about an abortion or asks for an abortion and recites those facts: I am a victim of rape, I am a victim of incest.

I will tell my colleagues the very first thing that clinic ought to do before they think about an abortion, before they think about who they are going to provide notice to. The first thing they ought to do is call the law enforcement authorities, because there is a far more serious and deeper problem in that kind of a family situation than just the question of who gets a certified letter. There is a question that deserves to be and should be and all too often I am afraid is not investigated and people brought to the bar of justice. I do not think that is a real common occurrence, let me say to my friend from the State of Iowa. It happens but it does not happen all the time. Nor is rape or incest the only kind of abuse that occurs within families.

There are many kinds of abuse, other than sexual abuse. There is physical abuse. There is mental abuse. There are some parents, not many, who deny to their children medical care, food, water, some who lock their kids in closets. I do not condone any one of these and I know the Senator from Iowa does not either. In each case there is some point at which the State or local or Federal authorities must step in and protect the child, even against the parents.

But, the fact that there are parents who abuse their sacred trust as parents does not mean we ought to make that presumption. The presumption which civilized societies have always made is that parents love their children and act in their best interests. Some parents may occasionally transgress that but that is not the general rule and we should not make family law or any other kind of law based on the assumption of abuse of discretion by parents any more than we ought to make ethical laws for the U.S. Senate or for the Federal courts or the executive branch based on the realization that there are occasional lapses of honor and integrity and occasional vio-

lations of the law by Senators and county commissioners and Cabinet officers and judges.

We grant enormous discretion and authority to people all the time, even though we know that human nature, being what it is, sometimes people abuse that authority. But our laws are not and should never be based on such exceptions.

Mr. President, Chief Justice Burger put it far better than I can, and I would like to quote him directly:

> The law's concept of the family rests upon the presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required in making life's difficult decisions. More important, historically it has been recognized that natural bonds of affection lead parents to act in the best interests of their children.

Chief Justice Burger went on to say this, and I ask my friend from Iowa to reflect on it because it sums up so well why his concern, though it is well-founded, does not justify turning down an amendment like this. Justice Burger said:

> The status notion that government power should supersede parental authority in all cases because some parents abuse and neglect their children is repugnant to the American tradition.

Mr. President, I would now like to turn to the third issue which my friend from Iowa raised in opposition to this amendment, which is roughly the issue of States rights. What he said was this whole matter would be left to the States, and frankly I do not dispute that. I think the States are in a better position to do many of the things which we undertake in this Chamber. We try to regulate the speed limits; we try to regulate whether States have billboards along the highway; we try to regulate in minute detail some professions which could be just as well regulated at the State and local level. I am not unsympathetic to the notion of States rights.

I would just like to ask Senators to read the last sentence of my amendment, as follows:

> Provided further, that this section 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.

I am not trying to preempt the States. I mentioned 35 States have legislation in this sensitive area. It would not surprise me, in fact it would please me, if other States would do so partly in response to this amendment.

Finally, the Senator from Iowa said there might be an amendment like this he could support, but this is too strict; it is too severe. He characterized it in some complimentary terms which I hope he will reconsider upon reflection. I think he can disagree with this without declaring it to be uncompassionate or uncaring. Perhaps he could find it in his heart to simply say, as I did earlier, that this is a matter about which thoughtful people sometimes disagree.

I do not question that he is thoughtful and compassionate, even though I think the policies he advocates will adversely affect the life prospects of unborn children. I do not think he thinks that, because if he did, I cannot imagine for a minute the Senator from Iowa would be insensitive to that concern. So I hope he will not be too harsh in his judgment of those of us who want to protect the life of these unborn kids.

In any case, I was intrigued by his observation that there might be some amendment he could support. It seems to me that is what I hear, not just on this subject, but whenever somebody cannot quite vote for an amendment; there is always some reason why this is not the perfect amendment.

I never said this was a perfect amendment. I never said this was the best of all possible amendments. I never even said it was a good amendment, other than it solves a practical problem which is when young girls go to have an abortion in a federally-funded facility under this act, at least one of the parents ought to be notified. We are not requiring they receive consent, but that they be notified so they have some opportunity to participate in the process.

Let me tell my colleagues some specific reasons why it is important. Rachel Ely, a 17-year-old unmarried high school student, was afraid to tell her parents she was pregnant, exactly the circumstances the Senator from Iowa described. although not the same case. Rachel had an abortion on the advice of her high school counselor. Several days after the abortion, Rachel went to another doctor when she became quite ill. Thinking the symptoms were not related, she did not tell the doctor about the abortion. Rachel was left with a permanent wheelchair-bound condition which was found later to be directly attributable to a postabortion surgical infection.

I might also mention Rachel had not been told that there were alternatives to abortion. Had Rachel's parents known of the abortion, they would have questioned the possible relationship between the abortion and Rachel's symptoms so she could get proper treatment quickly. Had Rachel's parents known their daughter was pregnant, they would have provided her with the alternative of keeping her child or placing the child for adoption.

Myoshi Callahan was 15 when she had an abortion without her parents knowledge or consent. At the clinic, she received no counseling whatsoever and felt her only choice was to have an abortion. As a result of the side effects of the abortion procedure, Myoshi had to have a hysterectomy. She has since told both her parents. Both parents grieved with her about the lost life and grieved because Myoshi at 15 had to go through this ordeal by herself. Myoshi has no doubt that if parental consultation for an abortion had been mandatory, she would have never had an abortion.

Holly Trimble was 16 when she became pregnant and decided to have an abortion. Her main purpose for the abortion was so she would not have to tell her parents about the pregnancy. She did not want to hurt them. Because she did not want to hurt them, Holly could not talk to them about the turmoil in her life and what it meant to her to go through the abortion, but she now looks back on what happened with deep regret. She is certain that if she had been exposed by someone to information about fetal development at the time of her decision, she would have chosen to carry the child to term.

Mr. President, I could go on and talk about other specific cases. I did not intend to go into this much detail, but since the Senator from Iowa mentioned some specific cases, I thought I should mention some specific cases as well.

Let me proceed for a moment from the particular to the general. Researchers who analyze data collected under the auspices of the Centers for Disease Control have concluded women under age 18 who obtain abortions are more susceptible to physical injury than older women. Some of the more catastrophic complications occur in teenagers.

Mr. President, I want to also point out that to the extent a minor does not share feelings surrounding a problem pregnancy with her parents, she is inviting a psychological problem that may be lifelong; isolation, alienation, a threat to her emotional and psychological well-being, over and above the death of the unborn child. That is what happens to the mother who undergoes an abortion.

Mr. President, a few minutes ago the Senator from Iowa asked why in the world I picked 18 as the age at which we ought to draw the line. It could have been 17; it could have been 19. But his question reminded me about what people at home say when you ask them the question should parents have a say, have notification in the case that their daughter seeks an abortion.

What brought it to my attention when he mentioned age 18 was that a July 1989 poll in USA Today asked that question and they said if a female under the age of 18 is thinking of an abortion, should the parents be consulted. By a margin of 75 percent, that is 75 percent of those polled, the readers of USA Today indicated that the parents should be notified.

Similarly, in a nationwide survey, a Los Angeles Times poll found that two-thirds agreed that minors should have to receive their parents' permission before they seek an abortion; two-thirds of the people in that survey thought permission was in order. Frankly, so do I.

I do not think young women should have an abortion without the permission of at least one parent. But that is not what my amendment does. My amendment just says at least one parent has to be notified.

Mr. President, I am sorry to take so long on this. I intended to take only a very brief time, but since the Senator from Iowa raised specific questions, I wanted to respond in a very specific manner.

If there are other questions or debate or argument, I shall try to respond to any other issues that arise as well.

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

Mr. ADAMS. Mr. President, I rise in opposition to the amendment of the Senator from Colorado and in support of the chairman's position.

The issue of abortion is an emotional one and one that has been debated again and again in the Senate and throughout the country. Today we are again debating one of the most troubling aspects of the issue—parental notification requirements. The Armstrong parental notification amendment would prohibit funds under Medicare title X and Federal programs from being used to pay for abortions for poor women in our society, who are the victims of rape or incest, it would also prohibit most hospitals who receive any Medicaid funding from performing abortions without notifying the parents of all young women regardless of their circumstances, and ability to pay.

One of the reasons I oppose this amendment is that it does not provide a judicial bypass for a young woman, under the age of 18.

Mr. President, there is no exception in this amendment for rape or incest. No exception whatsoever. And I cannot support that.

I have raised four children. I have two daughters; I have two sons. One always hopes that communication in a family is perfect or close to perfect, or is at very least, adequate. With my sons, the difficulties were in advising them on the Vietnam war, which is not an issue that was debated as much among young women at that time.

I agree with the comment of the chairman. If there were 98 women in the Senate of the United States and 2 men, I think this debate might have a very different cast. I regret that we are having a debate among 98 men and 2 women over requiring parental notification in the case of abortion for women under the age of 18.

Everyone hopes in this world for perfect communication within a family, but the type of polls cited by the Senator from Colorado have absolutely no relevance to this issue. The young woman who is pregnant, who is experiencing these incredible difficulties with rape and incest maybe to frightened to tell anyone, least of all have her father or guardian notified. The father or the guardian may well be the perpetrator.

That is why the chairman and I have stated that you need, in situations like this, an alternative to parental notification.

I want to mention just one case. I will not go into a number of cases, as was done by the Senator from Colorado. But parental notification cost Becky Bell, a 17-year-old young woman from Indiana, her life because she was afraid to talk to her parents. That is not just my opinion. It is Becky's father's opinion. Mr. Bell has begun a nationwide campaign against parent notification or consent laws, hoping to save other parents the pain of losing a child who was too frightened, too ashamed or was too much afraid of hurting or disappointing her parents.

I think experience shows us that there must be an opportunity for the young woman to seek counsel with other responsible adults and that there be a judicial bypass mechanism.

I might say that the problem is not as has been pictured. A majority of teenagers obtaining abortions at clinics, voluntarily tell at least one parent. They want comfort. They want help. There is usually a very good reason why a child does not notify a parent. Sometimes it may be psychological; sometimes it may be pure fear. But whichever it is, we should be very careful about it.

This is not something that just a lone man, Becky's father, or a few of us think is important. Frankly, I appreciate the statement of the Senator from Colorado. It happens to be something that I believe. I think Government should observe the rights of privacy of families. It should not be involved in the intimate details of decisions that are better made within the family. This is destructive, more often than not, in a family situation.

Becky's father is not alone. Neither is Senator HARKIN nor I. The American Medical Association, the American Psychological Association, the National Association of Social Workers—these are all professionals who work with these teenagers—oppose parental consent and notification laws. Becky's father said it best. "Parental notification denied Becky the right to make a safe choice."

What we are talking about, Mr. President, is the opportunity for young women to make a safe choice. I hope that in this nonperfect society, those of us who have been fortunate enough to raise our children without this problem and those of us in this body who probably, in great majority, will not face this problem, will not make too harsh a judgment on those who do face the problem, sometimes sadly as the result of a crime. We need to be protective of our children—and I would demand this of anyone who counsels young pregnant women—that we counsel them well, explain all the options available and encourage that they speak with a parent or close relative.

But I do not think we should throw a child, particularly not the weakest members of our society, a child below 18, into the situation where she may be fearful of retribution from whomever is being notified.

So I appeal to the kindness of this male body to understand the problems of a very young woman. I hope I understood my girls—I am not always sure I have; I am not sure I understand all the things that they say to me every day. And I know I did not understand them as well as I would have liked when they were teenagers.

I hope that this amendment will be defeated. We have all had our chance to talk on it. The Senator from Colorado has spoken twice. I have now had an opportunity. I hope the chairman can move to a vote on this.

But I just felt that some of us who have had some experience with this—the experience that the Senator from Colorado has had, the Senator from Iowa—should just come and tell our experience, and explain why it is that we do not want more Government regulation in family matters.

I thank the President. I yield the floor.

Mr. ARMSTRONG. Mr. President, I appreciate very much the statement of the Senator from Washington, and since he has raised the case of Becky Bell, I would like to share with my colleagues some additional detail that puts that case in quite a different light. The explanation by the Senator from Washington overlooks some facts that ought to be taken into account.

First of all, let me just make the point that the facts surrounding the Becky Bell case are not clear. The claim is by the Senator from Washington, I believe, and certainly by many others, that Becky Bell died because Indiana's parental consent law put her in a situation where death became inevitable. That is a huge stretch of the imagination at the very best, and, in any case, the Indiana law is not similar to my amendment. The Indiana law requires parental consent. My amendment requires parental notification.

However, even passing over that, I think Senators would want to know, in

view of what the Senator from Washington has said, a little more about the case of Becky Bell. I would like to read some excerpts from an article by Dr. J.C. Willke under the headline "Becky Bell Did Not Die From An Induced Abortion." I am now quoting:

Becky Bell is the now-famous 17-year-old Indianapolis girl who died September 16, 1988. Her death is being portrayed by pro-abortion groups all over the country as an example of why parental notification and consent laws are undesirable. The story as told by her parents and others is that she had an illegal induced abortion, became infected, developed pneumonia, and died from the infection. Indiana has a parental consent law that is being enforced. Her parents state that if she could have gotten a legal abortion in Indiana without her parents' knowledge, she would be alive today.

The facts are, as we shall see, that Becky never had an induced abortion—she died from massive penumonia. What most likely happened is that Becky took some drugs, vomited, accidentally inhaled some of the contents of her stomach, which resulted in her pneumonia. But that is not the parents' story and, unfortunately, they have elected to make a public crusade. We have no choice but to respond by publicizing the real facts.

Let me state, again I am quoting from an article by Dr. J.C. Willke.

Clearly, Becky's parents are still in a stage of profound denial over their daughter's death, and are being used shamelessly by pro-abortion forces for their own anti-life goals. Mr. and Mrs. Bell insist that Becky obtained, in some unexplained way, an induced abortion early in the week before she died. They insist that her womb became infected, that the infection spread through her system, and that the pneumonia developed from this, causing her death.

The National Abortion Rights Action League says loudly that Becky is the first teenager in the country whose death can be linked to parental consent laws. Newspaper accounts published to date go into great detail about this allegedly happy, normal teenage girl who had so many good qualities about her, who was a cheerleader, who bubbled with enthusiasm, who worked on behalf of various causes. A wildly distorted video, blaming Becky's death on Indiana's consent law, has been made with the cooperation of her parents.

Let me skip over some additional parts of this article. I am going to ask it be printed in the RECORD, and I hope all Senators will make a good point of reading it.

Mr. ADAMS. Will the Senator yield for a question. It is about the article. Is that article by Dr. John Willke, who is also the head of the National Right to Life group?

Mr. ARMSTRONG. Yes. Indeed it is. The article goes on to explain the circumstances and facts surrounding Becky Bell's tragic death. But one of the things that is, in my view, the key to it, is that in the first place, the claim that she could not obtain an abortion is not borne out by the facts because, as a matter of fact, she had an appointment on the day following her death to have a legal abortion. So the notion that this was unavailable to her simply is not borne out.

Moreover, an evaluation of the coroner's report showed no evidence of any abortion or any infection in the uterus, and so on.

Mr. President, the facts in the Becky Bell case are tragic, and all of us, particularly those of us who are parents, fathers and mothers of daughters, cannot help but feel a great sense of compassion for Becky and for her family. We also feel a sense of compassion for the unborn child whose life was lost.

But to use that tragic episode to argue against a commonsense provision to this amendment which will result in the saving of many lives, the lives of unborn children, and which will in addition contribute enormously to the well-being of the mothers who might otherwise go uncounseled into an abortion that could be avoided or, if they prefer to have the abortion, as they go forward doing so, at least to not do it in secrecy from their own parents, which has such profoundly psychological and personal implications.

With that explanation, Mr. President, I ask unanimous consent that we have printed in the RECORD Dr. Willke's article.

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

[From the National Right to Life News, Oct. 2, 1990]

BECKY BELL DID NOT DIE FROM AN INDUCED ABORTION

(By J.C. Willke, M.D.)

Becky Bell is the now-famous 17-year-old Indianapolis girl who died September 16, 1988. Her death is being portrayed by pro-abortion groups all over the country as an example of why parental notification and consent laws are undesirable. The story as told by her parents and others is that she had an illegal induced abortion, became infected, developed pneumonia, and died from the infection. Indiana has a parental consent law that is being enforced. Her parents state that if she could have gotten a legal abortion in Indiana without her parents' knowledge, she would be alive today.

The facts are, as we shall see, that Becky never had an induced abortion—she died from massive pneumonia. What most likely happened is that Becky took some drugs, vomited, accidentally inhaled some of the contents of her stomach, which resulted in her pneumonia. But that is not the parents' story and, unfortunately, they have elected to make a public crusade. We have no choice but to respond by publicizing the real facts.

Clearly, Becky's parents are still in a stage of profound denial over their daughter's death, and are being used shamelessly by pro-abortion forces for their own anti-life goals. Mr. and Mrs. Bell insist that Becky obtained, in some unexplained way, an induced abortion early in the week before she died. They insist that her womb became infected, that the infection spread through her system, and that the pneumonia developed from this, causing her death.

The National Abortion Rights Action League says loudly that Becky is the first teenager in the country whose death can be linked to parental consent laws. Newspaper accounts published to date go into great detail about the allegedly happy, normal teenage girl who had so many good qualities about her, who was a cheerleader, who bubbled with enthusiasm, who worked on behalf of various causes. A wildly distorted video, blaming Becky's death on Indiana's consent law, has been made with the cooperation of her parents. It will be making the rounds of colleges this fall and legislative chambers next year, the purpose of which will be to prevent the passage of parental consent laws.

The actual details of this sad story as revealed in an article by Gannett News reporter Rochelle Sharpe paint a far different picture both about Becky herself and the way she died. Becky had been involved sexually with a high school dropout as long as one year before her death. He also introduced her to drugs. Sometime in late 1987 or early 1988, her mother learned through a family friend that Becky might be pregnant, and immediately took her to Planned Parenthood, where the tests proved negative. Soon after this, her parents also admitted her to the hospital for an almost two-month detoxification program.

After returning home, she apparently became pregnant in mid-May. This time, instead of telling her parents, she told only her best girl friend, Heather Clark, who accompanied her to Planned Parenthood. She was pregnant this time, and was told about the Indiana consent law. According to the oft-repeated story of her friend, Heather, during the four months of her pregnancy, Becky wavered about what to do. She talked of going to Kentucky for an abortion, or running away to California, having the baby, and placing the child for adoption.

But the key part of Becky's sad story is what happened the last six days of her life. That she attended a drug party on a Saturday night, six days before she died, is listed on the coroner's report. It also details the fact that Becky told her mother that she thought someone had put "speed" or cocaine in her drink. It is known that she was in her room all of the following day, Sunday, telling her parents that she had the flu.

Becky apparently began hemorrhaging five days later—Friday morning—the day she died. Her mother recalls that she said earlier that day, "Mommy, I started" with a smile, which she thought was odd because Becky usually dreaded the cramps associated with her period. After the bleeding started, Becky, who had resisted going to the doctor, now agreed to seek medical help. Her father took her to the hospital that afternoon. She died that night.

Becky's mother loudly insists that Becky had someone try to induce her to abort during the final week of her life, although there is no evidence whatsoever to back that up.

In fact, Heather Clark flatly insists that Becky did nothing of the sort, stating repeatedly that Becky talked about getting a legal abortion in Kentucky right up until the day she died. (Heather believes Becky had a miscarriage.) Furthermore, after Becky's death, her mother found a list of abortion clinics and adoption agencies in her daughter's purse. Also, Heather Clark has stated that the day before Becky died, "Becky asked me for the phone number of a Planned Parenthood clinic in Louisville."

AUTOPSY REPORT

Were it not for the way the cause of death was listed on the coroner's report, I doubt that any of her parents' claims would be seen as having any credibility at all. The coroner listed "manner of death" as "undetermined," but "cause of death" as "septic abortion with pneumonia."

An actual reading of the autopsy report is essential in understanding this case and explaining why the coroner's wording has been misrepresented. First, we must remember that the cause of death does not say "induced" abortion, but merely "abortion." In medical terminology, a spontaneous miscarriage is referred to as an "abortion." Accordingly, then, if, as seems evident, Becky had a spontaneous miscarriage, then a more intelligible and accurate designation of cause of death would have been (even by this coroner) "spontaneous abortion, sepsis and pneumonia."

The central question, the answer to which will tell us whether it was physically possible for Becky to have had an induced abortion, is: How did the infection which killed her enter her body? Did the infection start in her uterus, or did it enter directly into her lungs? Let's read the actual report of the examination of her uterus. (It's technical but essential, and I will explain what is meant as we go along.)

"The uterus, fallopian tubes and ovaries are present. They are of usual size and shape for age. No tumors are present. There is evidence of recent pregnancy with recent partial abortion. The uterus is enlarged consistent with current pregnancy of age approximately 2-3 months. The cervix is dilated uniformly without evidence of mucosal or submucosal injury. Extruding from the cervical os is hemorrhagic and necrotic red-tan and grey-brown tissue consistent with products of conception. The lower third of the uterine cavity has only the flat mucosa without obvious evidence of instrumentation. However, the upper ⅔ of the uterine cavity has a mixture of blood clot and necrotic and hemorrhagic products of conception. There are no recognizable fetal parts, and the amniotic membrane has been ruptured, leaving only a small area recognizable as thin blue-tan glistening membranes. There is no evidence of hydatid mole or invasive choriocarcinoma. The serosa of the uterus is smooth and glistening and without exudate, and there are no areas of perforation or pus in or around the uterus. The right ovary has a 1 × 1½ × 1 inch bright yellow corpus luteum. The remainder of the ovaries shows unremarkable for age ovaries. There are no injuries of the vagina."

Now let's go back up through this and do a little translating. That she was pregnant is obvious. Central to our concern here is the cervix, which in a 17-year-old having her first pregnancy would have to be stretched open by an abortionist, causing some tearing of the lining of that cervix, even by the most gentle dilation. If a trained abortionist had performed an abortion, there would have been evidence of scraping, trauma, scratching, and tearing. Had an untrained person attempted an abortion, there would have been much more damage to the cervix and uterus. To have cervix "dilated uniformly without evidence of mucosal or submucosal injury" totally rules out the use of any instrumentation; rather; it tells any physician that this was a spontaneous miscarriage, not an induced abortion.

The description of what "extrudes" from the "cervical os" (cervical opening) is of the normal leftover from a nearly completed miscarriage. The report then further states that the lower third of the uterus was "without obvious evidence of instrumentation." The report describes the remaining tissue in the upper two-thirds as exactly what one would expect from a miscarriage. Then the report speaks of the serosa, which is the outer covering of the womb, which is described as "smooth, glistening and without exudate." Exudate would be pus or oozing if the organ was infected. Dr. Bernard Nathanson agrees that were this a case of septic abortion, this tissue would be "shaggy and discolored" (not "smooth, glistening and without exudate"). Further, the report stated, "there are no areas of perforation or pus." Finally, there are "no injuries of the vagina."

The autopsy report of the lungs and pleural (chest) cavities take up over half a page of single-spaced reporting, and describe to us what amounts to near total destruction of those organs by infection.

Dr. Nathanson, who performed thousands of abortions before he completely reversed his position and became a pro-lifer, agrees that "there is no evidence for an induced abortion at all." He states that the cause of death was probably overwhelming pneumonia, unrelated to the miscarriage. He suggests that all slides of tissues examined at autopsy be reviewed by an impartial pathologist. He said that his opinion would be supported. Incidentally, all other specialists that I have consulted also ask that the slides be reviewed.

OUTSIDE EXPERT TESTIMONY

Columnist Cal Thomas quotes Dr. John Curry, former head of the Tissue Bank at Bethesda Naval Hospital, who said that, while there is evidence of massive infection in the lungs and elsewhere in the body, there is no evidence of infection on the outside or the inside of the uterus. Dr. Curry stated that the germ that killed Becky "is a common pneumonia germ (streptococcus pneumoniae) that could have been treated had it been detected earlier; a germ which is unlikely to originate from a contaminated abortion procedure."

Dr. Curtis Harris, a teaching Endocrinologist from Oklahoma City and president of the American Academy of Medical Ethics, has consulted in detail with four prominent specialists in the fields of infectious disease, Ob/Gyn, Infertility, and Pathology. All of them have agreed that Becky had a spontaneous miscarriage; that her uterus was not infected; that in all likelihood her drug taking was the primary cause of the infection, either through aspiration and/or through toxicity; that the miscarriage was likely directly related to drug ingestion; and that she died from overwhelming sepsis from the lung infection, which was completely unrelated to her spontaneous miscarriage. He, too, asks for the slides for pathologic consultation and examination. His consultants have all agreed to serve "in any capacity that they can to dispel this incredible lie."

It is true that the autopsy reported that blood specimens analyzed for the drugs were negative for alcohol, cocaine, "speed," and "other drugs." They did not examine for marijuana. But this negative report is not surprising, considering the fact that the blood specimen was taken one week after Becky took the drugs at the party. Within that period of time, all of the above drugs would have cleared her system. Again, the only germ cultured was streptococcus pneumoniae, which is a very common, primary pneumonia germ, and which would not be at all likely to originate from an infected uterus.

PRO-LIFE "TRUTH SQUADS"

Having gone through all the facts, what are we to say and do? To put it mildly, the pro-aborts' case rests on extremely shaky grounds. Even with a media nearly totally sympathetic to pro-abortionists, the truth on this one should be able to be brought forward. The pro-aborts, we know, will be making the rounds of college and high school campuses this fall. We know that they have unlimited money to produce thousands of copies of their propaganda video. We can fully assume that this same video will be in the hands of state legislators when they reconvene in January.

And so, what are we to do? We must, each of us, in our own state, in our own cities, develop a "truth squad." This should be made up of several persons, preferably including a physician or another knowledgeable professional. This pro-life truth squad should obtain copies of the autopsy report and familiarize themselves with the above story. Then, anytime the Becky Bell case is brought up by the pro-aborts, pro-lifers should be there to tell the truth.

Feel free to contact our office for copies of the papers I have quoted, Olivia Gans, national director of American Victims of Abortion, as well as Dr. Richard Glasow, NRLC Education Director, will be glad to assist you. In the August 16 issue, NRL News Editor Dave Andrusko wrote about Becky Bell. Read his editorial again. It was entitled "They Have No Shame." Let me also tell you—they have no case. But it's up to you to get that story out.

Mr. ARMSTRONG. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point the article of Cal Thomas, a thoughtful and distinguished newspaper columnist, that appeared in the Washington Times on August 9, 1990, which also discusses and analyzes the events surrounding the case of Becky Bell.

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

[From the Washington Times, Aug. 9, 1990]

A RUSH TO BLAME IN BECKY BELL'S DEATH

(By Cal Thomas)

In the dispute over who will exercise the ultimate authority and responsibility for the hearts, minds and bodies of our children, there are some new combatants.

Planned Parenthood, The Fund for a Feminist Majority and several other "pro-choice" groups are using the case of an Indiana teen-ager who died of pneumonia, allegedly caused by an illegal abortion, in an attempt to strike down laws requiring parental consent before a minor can obtain an abortion.

Becky Bell was a 17-year-old Indianapolis girl who died Sept. 16, 1988, under circumstances the pro-choice groups say was the result of her trying to circumvent Indiana's parental consent law by seeking an illegal abortion. Miss Bell's parents have announced plans to use their daughter's death as a rallying cry against such laws. They also have participated in the creation of a video they want to show in public schools and universities that they hope will lead to the repeal of parental consent legislation. The Supreme Court recently upheld paren-

tal consent laws when they include a judicial bypass provision.

Though the Marion County, Inc., coroner's report lists the cause of Becky's death as "septic abortion with pneumonia," the manner of death was said to be "undermined" and the circumstances leading up to her death are anything but clear.

According to Dr. John Curry, former head of the Tissue Bank at Bethesda Naval Hospital, "septic abortion usually means that as a result of destructive actions within the uterus, an infection has started which subsequently spreads to the rest of the body. In this case, the pathology report is notable in that while there is evidence of massive infection in the lungs and elsewhere in the body, there is no evidence of infection on the outside of or within the uterus." Dr. Curry says the germ that killed her "is a common pneumonia germ (streptococcus pneumoniae) that could have been treated had it been detected within the first six days and which is unlikely to originate from a contaminated abortion procedure."

The coroner's report notes that "Rebecca Bell . . . reportedly has a history of substance abuse for which she was hospitalized from mid-February through April 1988. Investigation disclosed that [she] became pregnant in mid-May 1988 (according to Planned Parenthood referral receipt)."

Becky's mother believes her daughter took something to induce an abortion. But in an interivew conducted by Rochelle Sharpe of Gannett News Service. Becky's best friend, Heather Clark, said she believes Becky had a spontaneous abortion (miscarriage).

The coroner's report says Becky "reportedly was at a party where various drugs were being used (cocaine, 'speed' and LSD) on the weekend of September 10-11, (and later) claimed that someone had put 'speed' in her drink."

The case raises several important questions.

First, why would Becky undergo an illegal abortion when she had scheduled a legal procedure in neighboring Kentucky for the day after she died?

Second, was Becky undecided about whether to seek an abortion or place her baby for adoption? She had papers listing abortion clinics and adoption agencies in her purse when she died.

Third, did her father contribute to his daughter's frustration? According to Heather, Becky's father said that if she messed up one more time, she'd be thrown out of the house.

Fourth, why does no one mention the crisis pregnancy centers or other pro-life counseling agencies that not only provide free counseling but often serve as bridges between parents and children and, if necessary, can offer free housing for girls in crisis situations? The Bells and the pro-choice groups make it appear as if there was no other alternative for Becky than an illegal abortion.

Supporting Heather Clark's account that no abortion had been performed was a doctor who provided emergency treatment when Becky finally went to the hospital. The doctor was quoted by Rochelle Sharpe in her story: "I don't know whether we're going to be able to save the baby."

If Becky's parents had known about her pregnancy, they most likely would have made sure she received medical attention when health complications arose—attention that could have saved her life. The real lesson to be learned from Becky Bell's death is not that parental involvement laws are bad. It is just the opposite—that young girls (and especially Becky, who reportedly had a history of drug abuse that may have contributed to her inability to reason in her own best interests) need the advice and involvement of their parents when facing a crisis pregnancy.

The medical cause of Becky Bell's death may have been pneumonia, but the underlying cause remains unclear. One thing is clear: Her death was not due to Indiana's parental consent law.

Mr. ARMSTRONG. Mr. President, there are a number of other articles we could go into at this time. I try, in dealing with matters like this, to rely on published information rather than the kind of information that sort of is second hand or comes to you over the telephone, because that sort of thing is subject to misinterpretation. That is why, in responding to the Senator from Washington, I have tried to do so with material that has been published in reputable sources.

I have a number of other articles. If Senators have further questions about it, I would be glad to share them with them. But I think I have made my point.

In fact, I think the issue is quite clear. This amendment simply requires that, in a certain number of relatively limited circumstances before an abortion may be performed, at least one parent has to be notified.

The hallmarks of this amendment are, first, it is notification, not consent; second, it only applies in those entities which receive funding under this bill, not in private hospitals, not in private facilities that do not receive funding from HHS, but only in those cases where there is Federal money involved in the support of the entity that might perform the abortion; third, there is a specific bypass procedure in the case of medical emergency, as I have discussed previously; fourth, there is a specific exception for those States that have legislation on this subject so that we do not unnecessarily preempt the State law.

Mr. President, unless other Senators wish to speak or have further information, I am prepared to go to a vote or yield the floor.

Mr. SPECTER. Mr. President, in the intervening moment since this amendment was introduced I have secured a copy of the opinion of the Supreme Court of the United States in Hodgson versus Minnesota. I have not had the time to examine it thoroughly. It runs some 36 pages in the majority and a good many additional pages, 19 pages, on an additional opinion, and 15 more on subsequent opinions.

On the basis of the record here, I am concerned about the constitutionality of the pending amendment. The distinguished Senator from Colorado stated in his closing remarks that the parent has to be notified. The written text of the amendment is not conclusive on that, but it specifies that a physician will not "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 in this subsection."

The subsection goes on to talk to restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. It further provides that the 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.

It may be that mailing alone is sufficient, but as the Senator from Colorado has said, there has to be notification. Where you talk about notification by analogy and consent, without a judicial bypass—I would not want to state this with finality—it appears to be constitutionally infirm. I wanted to make that point and make the report, without having read the opinion only to the extent possible in this timeframe.

One of the problems that all of us in the Senate knows about—for all those watching this on C-SPAN II, and those listening in the galleries—amendments may be filed by any Senator at any time on any subject, and that is Senator ARMSTRONG's right. I do not raise a question about his pursuing his rights. If I were not the manager, I would not have said anything about this matter, but I feel constrained, being a manager, to make a comment about it.

I am trying to grope with it. It would take some time to give this the kind of analysis which would really be definitive. It might be wrong after the analysis, but at least it would be definitive. I do have that concern.

There had been a similar amendment—I do not know how close the pending amendment is to that one that Senator ARMSTRONG offered before on a similar subject, which I had opposed. I intend to oppose it for the reasons I have stated. I wanted to give my colleague notice of that in my position as manager of the bill.

I yield the floor.

Mr. ARMSTRONG. Mr. President, the Senator from Pennsylvania is either the most thoughtful legislator on such issues, or if he is not, I do not know who is more thoughtful. Over and over again, he has brought to bear an enormous background on the law and a keen intellect. Once again, he has done so. I appreciate the tone and manner in which he has done so.

I have also, in the intervening times since we discussed this, sent off for a Minnesota case, which I have here, and also an Akron case. I am in the same boat he is, in that I have not had a chance to read them. I do not vouch for this, but I am advised that there

are a couple of points we can take comfort on.

First, the Minnesota case—and I am sure of this—is a different fact situation. In that case, we had a two-parent requirement, not one, and it was a requirement for consent, not notice. So we have a factually different situation. That might not change the outcome, but it is factually different.

In the Akron case, I am told—I have not had a chance to locate it, but I will seek to do so and insert it into the RECORD, if I am able to locate it. I am told there is dictum that indicates that the court would sustain one-parent consent without a bypass. In fact, if I may just ask the indulgence of the Senate for a moment, I would like to yield the floor. I have just been handed a document that I think is relevant to that. I am advised that the court indicated they would sustain a one-parent consent.

What we are talking about here is one-parent notification, which is obviously a much lower standard. In any case, I do yield the floor for a moment while I determine what this paper is.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ARMSTRONG. Mr. President, I cannot come to grips with it that fast. I do not know anything about this case, other than just what I have said. I want to say again that I will seek the right time to insert this into the RECORD. I want the Senators to know that I am relying on the advice of counsel who tells me that is what this case said. I have not actually read it. So I leave it at that.

In any event, let me make this point. Whatever the Minnesota case or Akron case says, we are not here as judges or justices of an appellate court or the Supreme Court or anything else. We are here as policymakers. Even in those instances where there has been an opportunity for a thorough examination of legal issues involved, those are never the basis on which we make decisions here, and when we do, some court is going to make up its own mind anyway. That is what courts and lawyers are for.

Frankly, I think it is far-fetched to think there is a serious legal issue here on the constitutionality of it. But I could be wrong. The issue before us is whether or not we think, as legislators, as policymakers, that there ought to be, in the limited number of cases that are encompassed within my amendment, a notification of at least one parent before a minor woman has an abortion. As I mentioned earlier, in a USA Today poll, 75 percent of the people in America polled thought that was a good idea. My hope is that at least 75 percent of the Senators will feel the same way.

Mr. SPECTER. Mr. President, by way of very brief rejoinder, first, I thank my distinguished colleague from Colorado for his kind remarks. I would like to say that they are entirely reciprocated, for in the 10 years I have been here, Senator ARMSTRONG has proposed some very thoughtful legislation. As to his last remarks I agree on one proposition and disagree on another.

I agree on the proposition that we cannot come to judgment about the constitutional implications. I have since been handed the case of Ohio versus Akron Center for Reproductive Health, and I note that this also is a very lengthy opinion. It is a quarter of an inch; I cannot count the pages. The decision syllabus says:

Fourteenth amendment held not violated by Ohio statute prohibiting abortion on minor absent either parental notification, parental consent, judicial bypass, or inaction.

I want to agree with the Senator from Colorado, that I cannot come to grips with the constitutional implications either. One of the infirmities of our system is that amendments may be offered, appropriately so, without a chance to note their legal impact.

But I disagree, respectfully, with my distinguished colleague from Colorado on the aspect of that constitutionality issue. We do—I think appropriately—consider constitutionality, and it is not just a matter that we are sworn to uphold the Constitution; it is that we have to make that kind of determination that leads preliminarily.

So I think that is for us to consider, whether the proposed amendment is unconstitutional. That is a solid basis for not accepting it or supporting it. I thank the Chair.

Mr. ARMSTRONG. There is an old saying, Mr. President. Earlier I said I never practiced law on the floor of the Senate. Of course, I never practiced law anywhere, because I am not a lawyer. In light of what the Senator has said, let me read one or two sentences from page 5 of that Akron case:

We leave the question open, because whether or not the 14th amendment requires notice, statutes do contain bypass procedures, the H.B. 319 bypass procedure meets the requirements * * * .

And so on.

In other words, they have left that question open. Let me say again, I do not know what precedes that on page 5. I do not know what follows it on the ensuing 20 or so pages. But counsel advises me that is a question that is left open and, in fact, advises me that the dicta indicates they would approve the kind of amendment that we have before us.

I do not think any Senator, not even one Senator, ought to base his decision on how to vote on it. We do not know how any court is going to hold on this. I do not claim we do. I would not want to leave the impression that it is suspect or in doubt. There is good reason to believe that, purely on the law, it would be upheld. It is a question of whether we think it is good policy. That is the question before us.

Mr. HARKIN. Mr. President, I want to take my second speech here on this amendment to respond to some of the points made by the distinguished Senator from Colorado, who was responding to my first speech on this.

First, the Senator from Colorado says there is a bypass in his amendment. That bypass is for medical emergency, obviously, to save the life of the mother. There is no bypass for rape or incest, absolutely none.

Of course, that, I am sure, is in keeping with the Senator's strong views on this subject of abortion.

I do not mean to put words into the Senator's mouth, but it is my understanding that the Senator from Colorado would prohibit all abortions even in the cases of rape and incest if the Senator had his way and the Senator could mold the laws according to his own personal views on this subject. So there is no bypass here for rape or incest, only to save the life of the mother.

Second, talking about entities that receive Federal funds, this does not just cover Planned Parenthood clinics. This could be any hospital that receives Medicare funding, any hospital that receives NIH funding. It could be all kinds of hospitals throughout the United States.

Again, these are the places that you would hope that a young person who would seek to terminate a pregnancy would have it done where it would be safe, where you would have the kind of expert medical care that one would need in this situation.

Yet if all these hospitals, and I cannot think of any hospitals that do not receive some Medicare funding, you say that none of those would be eligible, then a young woman in that situation obviously would wind up in a back alley someplace because she could not seek to have the pregnancy terminated in a medically safe environment like a hospital.

Third, the Senator from Colorado talks about parents abusing children, and again I would have to examine the record, but I tried to write down his words, and he said it does not happen often; it does not occur often. I really think that is looking at the real world through rose-colored glasses. I am quoting here from the National Women's Law Center, that came out sometime this year and they were citing a study that was done, and I will just quote from it. It says:

The sexual abuse of children is also tragically widespread and underrreported. Although the American Humane Association estimates that 132,000 children were sexually abused in 1986, a national survey conducted by the Los Angeles Times Poll found that 27 percent of the women and 16 percent of the men surveyed reported a history

of child sexual abuse, suggesting that the actual extent of child sexual abuse may be much greater.

Mr. President, I ask unanimous consent that that finding be printed in the RECORD at this point.

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

II. A RIGID REPORTING REQUIREMENT WOULD EXCLUDE LARGE NUMBERS OF SEXUAL ASSAULT VICTIMS

Requirements that women report sexual assault to law enforcement authorities within a short time frame would exclude most victims from Medicaid funding and would ignore the needs of assault victims. In 1988, the FBI received reports of 92,486 forcible rapes of women over the age of 12.[2] However, because most women do not report rape to law enforcement authorities researchers estimate the actual number of rapes occurring each year to be between 200,000 and 900,000.[3] The sexual abuse of children is also tragically widespread and underreported. Although the American Humane Association estimates that 132,000 children were sexually abused in 1986, a national survey conducted by the Los Angeles Times Poll found that 27% of the women and 16% of the men surveyed reported a history of child sexual abuse, suggesting that the actual extent of child sexual abuse may be much greater.[4]

Mr. HARKIN. So it does tragically occur more often than either the Senators from Colorado or Iowa would ever believe that it did occur, but it does occur, tragically more often than as I said we care to even admit.

The third point the Senator from Colorado talked about is State interference. What I am talking about is having another responsible adult be able to make a decision. Again under the amendment as it is drafted, which is why I believe it is fatally flawed, is that the State really is interfering in a very heavy handed manner. Again, the State has come in under this amendment, mandating that the doctor who performs the abortion has to deliver the notification or it has to be by certified mail with return receipt.

I would say again if it is a young woman who could be 16 or 17 years old, if there are no parents around, and she is not "emancipated," whatever that may mean in its archaic meaning—I am not certain it is legally defined in our society; I am sure this has an archaic meaning "emancipated" young women—a young woman 16 or 17 found herself in a situation with no parents and is a victim of rape, she is out in the cold. Talk about the State interfering, the State is coming in and saying, sorry, you are in a catch-22 situation. This law says we have to notify your parent. There is no parent. Tough luck. Even though you are the victim of rape, tough luck.

So, I believe this amendment is the one that puts the State in a very heavy-handed manner into this system.

I will just say what this amendment again provides is a two-class system. Obviously the Senator from Colorado does not reach a young woman who has financial means who could afford to go to a very ritzy, high-class private clinic that receives no Federal funds someplace and terminate a pregnancy. This amendment does not touch that.

This touches young women who may be poor, who may need to go to a public hospital, or to a Planned Parenthood clinic, and again I would point out that under the law title X funds cannot be used to perform abortions, absolutely none. But this amendment would provide again for two classes. If you have money, you can go ahead and terminate your pregnancy without any of this amendment applying. But if you do not have money, and if you are poor, then the State is going to mandate certain things. There are two classes.

So, again, the Senator from Colorado said this is notification, not consent. For a young woman who is a victim of rape who has no parents, who is not emancipated, or a ward of the State, this is consent because if she cannot notify them, the abortion can't be performed, so it really is consent. The way it is drafted, it is a consent amendment.

For those reasons, I think this amendment, as I said before, is fatally flawed because it does not provide either for a judicial bypass nor does it provide for another responsible adult, or counselor, to be involved to take care of those tough cases of a young woman who may be the victim of rape or incest.

So, Mr. President, I guess all has been said that can be said on this, and so therefore I move to table the amendment.

Mr. ARMSTRONG. Mr. President, will the Senator withhold the motion to table?

The PRESIDING OFFICER. Does the Senator consent to withholding the motion to table?

Mr. HARKIN. I withhold.

Mr. ARMSTRONG. I thank my friend from Iowa for doing so.

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

Mr. ARMSTRONG. Mr. President, we have had, it seems to me, a very good discussion. I do not want to reargue the points that he has just made. I had my say on those, for the most part. Certainly, he and I do not see the bypass issue the same. There are a couple of ways in which this amendment can be bypassed. We have discussed those.

I was surprised, however, that he raised the question of creating a two-class system. He is correct that this does not forbid, or condition, or put any requirements on abortions that are performed in entities that do not receive Federal funds. I mentioned that in my opening statement. I advertised it as a wise provision of the amendment.

What he characterized as ritzy private clinics presumably are not receiving funds under this legislation. So my amendment is aimed only at those entities which are receiving funding, in other words, precisely avoiding the tempting but in my view unwise recourse to a broad sweeping amendment. It is narrowly focused just on those entities that actually receive funds under this bill.

Let me say also to my friend from Iowa that it is hard to imagine in the light of what he has said that he would actually think the amendment would be improved if it had wider applicability. In fact, I would think that, but I do not really believe the Senator from Iowa would think so.

Mr. President, the Senator from Iowa also makes the point that we should not be complacent about the cases where abuse of children takes place within a family. I am sure no one thought I was complacent about it. I am not complacent about it. If even one such case occurs it is a tragedy, and certainly there are enough such instances that it constitutes a very great concern. Not only sexual abuse but other abuse of children is a shame, a blemish; it is a shocking thing.

I want to remind the Senator what Chief Justice Burger said. "The State's notion," Justice Burger wrote, "that government power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to the American tradition."

Mr. President, I rest my case right there and if all Senators are prepared to do so to go to a vote because this amendment is consistent with the American tradition. It just makes sense that certainly with some exceptions, maybe even some tragic exceptions, parents love their children, parents are in the best position to be of support and counsel for their children in times of crisis and emergency and an unwanted pregnancy is one of those times.

Certainly, if the law requires that you have parental consent for appendectomies and transfusions and even to donate blood and even in most instances to even have your ears pierced, it is not too much to ask that there should at least be parental notification, not consent but parental notification, before an abortion.

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[2] Federal Bureau of Investigation, "Uniform Crime Reports." (1989).

[3] Koss, "The Hidden Rape Victim: Personality, Attitudinal, and Situational Characteristics," 9 "Psychology of Women Quarterly" 193-212 (1985).

[4] Finkelhor, Hotaling, Lewis & Smith, "Sexual Abuse in a National Survey of Adult Men and Women: Prevalence, Characteristics, and Risk Factors," 14 "Child Abuse and Neglect" 19 (1990).

I hope all Senators will vote for the amendment, or if, as I anticipate, the Senator from Iowa moves to table, that they will vote against the tabling amendment.

Mr. HARKIN. Mr. President, the issue is not parental notification. That is not the issue. I wish that were the issue. It would be a very easy vote. It is not the issue at all. The issue is whether or not you have an amendment of this nature that is so constrained, so tightly worded, that it would not allow for any kind of bypass for victims of rape or incest. That is what this amendment does.

As I said earlier, I do not in any way impugn any motives of the Senator from Colorado. He has very strong feelings on this subject. I recognize those strong feelings. They are his own personal feelings, and certainly I think this amendment reflects those strong feelings he has on abortion.

But I do believe that the end result of this amendment is one that is very cold and very heartless. Again I am not saying that the Senator is. He is a caring person. But I am saying that the effect of this amendment is one that does not provide any kind of leeway for the least in our society, those who are poor, the outcast, the ones that do not have loving and caring parents.

It is easy for us to stand here. I have two daughters, one just starting high school. I will tell you, the older my daughters get, the more sensitive I am becoming to just how vulnerable our young women are in our society, how vulnerable they really are.

I hope that my wife and I have established the kind of loving and caring and open relationship with our two daughters so that they can always come to us with their problems and their concerns. I trust that that will happen. But not all families are like that. I wish they could be. I wish all families had a good relationship, two loving parents. But, sadly enough, that is just not the way it is.

I know that any parent, any parent, would want his or her daughter to come to them in case they were ever in trouble, even if they were pregnant. If they had a young daughter who was pregnant, they would want them to come and work out their problems with that parent. No parent worth his or her salt would not want that to happen.

But, above all, Mr. President, I believe that every parent would want his or her daughter to be safe. And that is what this amendment is about. It is about providing for some compassion, some caring, some understanding that not all families have, like the families that most of us are blessed with.

With that, Mr. President, I move to table the amendment.

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

Mr. ADAMS. Mr. President, point of order. The motion is not debatable.

The PRESIDING OFFICER. The motion is not debatable.

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

Mr. ADAMS. The absence of a quorum is a point of order.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

Mr. ADAMS. Point of order. Once the vote has been called for and the Senator has the floor and the matter has gone before the clerk, a quorum call is not in order.

Mr. ARMSTRONG. Mr. President, a quorum is not present.

The PRESIDING OFFICER. A quorum call is in order prior to the vote.

The clerk will call the roll to ascertain the presence of a quorum.

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

Mr. ARMSTRONG. Mr. President, will the Senator withhold his motion to table?

Mr. HARKIN. Yes.

The PRESIDING OFFICER. The motion is withheld.

Mr. ARMSTRONG. I thank the Senator for his willingness to do so. I think this has established the point I wished to establish, and that is that Senators can be heard even when somebody does not want them to be heard.

It so happens that a moment ago I was intending to address a question to the Senator from Iowa. I think, under the circumstances, maybe enough has been said and, though I would be interested in his answer to that question, that there could be another time for that and sooner or later at the right time perhaps I shall ask him that question. At the moment, I am satisfied.

I thank my colleagues.

I thank the Chair, and ask for a no vote on a motion to table.

Mr. KOHL. Mr. President, I rise in support of the motion to table the amendment offered by our colleague from Colorado.

As I understand the proposal, it would prohibit a woman under the age of 18 from choosing to have an abortion, unless a parent were notified at least 18 hours prior to the procedure.

I struggle with this vote, Mr. President, because under the parliamentary situation before us, there is no way to modify the amendment. My only choice is yes or no. I believe the questions raised by the issue of parental notification or parental consent, deserve far more deliberation and consideration than a simple yes or no can offer.

This issue has been hotly debated in my own State of Wisconsin, and while all would not agree with me on this, I think in the minds of many voters this is an issue about the family, not just an issue about abortion rights. I have spent a great deal of time struggling with the issues, and even though I strongly believe in a woman's right to choose, I also believe in the role of the family. If we could figure out some fair and appropriate judicial, religious and social service bypass procedures, I could support some form of parental consent requirement.

Without that, Mr. President, we are ignoring the tragic dilemmas of young women who are the victims of incest and domestic violence. We are ignoring the victims of rape. And not only ignoring the reality that some 17-year-old women may not only have legitimate reasons for not wanting their parents involved, but those women may indeed have the maturity to make their own informed choice.

I, for one, Mr. President, am a bit weary of these politically cast votes that are not only misleading in terms of our views on issues, but also do grave injustice to the importance of the policies themselves. Three short weeks ago, this body adopted this amendment by voice vote, having failed to table an underlying amendment. Today, I expect we will once again fall victim to the process. I will vote to table this amendment because as written, it is simply bad public policy.

However, I do hope that we can return to this matter in the next Congress. And I hope that when we do, that we can have the full support and participation of those who support a woman's right to choose. I hope that we can agree on a policy that protects the rights of young women seeking abortions, as well as their parents.

Mr. LEVIN. Mr. President, I support some form of adult involvement in the decision of minors to have an abortion, which would allow minors who cannot turn to their own parents to go to another adult family member or other adult or judge for consultation.

The Senate voted on this same amendment with respect to another piece of legislation a few weeks ago. In the intervening time, nothing has been done to remedy the problems with the amendment that I noted when it was first offered. This amendment does not provide for an exception for rape or incest. In addition, it does not include a provision for judicial bypass in those cases in which parental notification is not appropriate in light of the circumstances. This amendment is not as carefully drawn as the importance of this issue merits.

The PRESIDING OFFICER. The question occurs on the motion to table.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa [Mr. HARKIN] to table amendment No. 2954 offered by the Senator from Colorado [Mr. ARMSTRONG].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. METZENBAUM] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Oregon [Mr. HATFIELD], and the Senator from California [Mr. WILSON] are necessarily absent.

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

The result was announced—yeas 48, nays 48, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—48

| | | |
|---|---|---|
| Adams | Gore | Mitchell |
| Akaka | Graham | Moynihan |
| Baucus | Harkin | Packwood |
| Biden | Heinz | Pell |
| Bingaman | Hollings | Pryor |
| Bradley | Inouye | Riegle |
| Bryan | Jeffords | Robb |
| Bumpers | Kennedy | Rockefeller |
| Burdick | Kerrey | Rudman |
| Chafee | Kerry | Sanford |
| Cohen | Kohl | Sarbanes |
| Cranston | Lautenberg | Sasser |
| Daschle | Leahy | Simon |
| Dodd | Levin | Specter |
| Fowler | Lieberman | Stevens |
| Glenn | Mikulski | Wirth |

NAYS—48

| | | |
|---|---|---|
| Armstrong | Durenberger | Mack |
| Bentsen | Exon | McCain |
| Bond | Ford | McClure |
| Boren | Garn | McConnell |
| Boschwitz | Gorton | Murkowski |
| Breaux | Gramm | Nickles |
| Burns | Grassley | Nunn |
| Byrd | Hatch | Pressler |
| Coats | Heflin | Reid |
| Cochran | Helms | Roth |
| Conrad | Humphrey | Shelby |
| D'Amato | Johnston | Simpson |
| Danforth | Kassebaum | Symms |
| DeConcini | Kasten | Thurmond |
| Dixon | Lott | Wallop |
| Dole | Lugar | Warner |

NOT VOTING—4

| | |
|---|---|
| Domenici | Metzenbaum |
| Hatfield | Wilson |

So the motion to lay on the table amendment No. 2954 was rejected.

Mr. ARMSTRONG. Mr. President, is the pending question now the amendment?

The PRESIDING OFFICER. The amendment of the Senator from Colorado is pending.

Mr. ARMSTRONG. I move to reconsider the preceding vote.

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

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider the vote.

Mr. KENNEDY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Is the one who made the motion on the prevailing side?

The PRESIDING OFFICER. The Senator voted on the prevailing side.

Mr. ARMSTRONG. Mr. President, the pending question is on the amendment?

The PRESIDING OFFICER. The question is now on agreeing to the motion to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, after consulting with the manager of the bill, I ask unanimous consent that the yeas and nays be vitiated and the question be decided on a voice vote.

The PRESIDING OFFICER. Is there objection? Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 2954) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote.

Mr. HATCH. 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 Illinois is recognized for a technical amendment.

Mr. SIMON. Mr. President, if I may have order.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Illinois is recognized.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognized the Senator from Illinois first. Does the Senator yield?

Mr. SIMON. I yield briefly to my colleague from Iowa, but I want to retain my right to offer an amendment.

The PRESIDING OFFICER. Is there any objection to the request of the Senator from Illinois? If not, it is so ordered. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the remaining committee amendments be agreed to en bloc, with the exception of the committee amendment starting on page 17, line 15——

Mr. HELMS. Mr. President, we cannot hear.

Mr. HARKIN. And that the bill as thus amended——

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I hope the Chair will get order.

The PRESIDING OFFICER. The Senate will not proceed until the Senate is in order.

The Senator from Iowa.

Mr. SIMON. Mr. President, I ask unanimous consent that the amendment that I am about to offer be set aside so that the Senator from Iowa may offer his amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the remaining committee amendments be agreed to en bloc with the exception of the committee amendment starting on page 17, line 15; that the bill as thus amended be considered as original text for the purpose of further amendments, provided that no point of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not want to be a bear about this, but I cannot hear, and if the Chair would persist in getting order in the Senate.

The PRESIDING OFFICER. The Senate is not in order. The Senate will come to order.

The Senator from Iowa.

Mr. HELMS. No. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I do not think I am going to object. Let me inquire of the distinguished Senator from Iowa, he is excepting out the amendment, the provision on page 17, line 15, et cetera, is that correct?

Mr. HARKIN. That is correct. Yes.

Mr. HELMS. Very well. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the committee amendment starting on page 17, line 15, and that the bill as thus amended be considered as original text for the purpose of further amendments, provided that no point of order be waived by reason of this agreement.

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

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2955

(Purpose: To require the Secretary of Education to reduce or waive the administrative guideline of a 25-percent non-Federal contribution regarding certain disaster relief provided pursuant to section 7 of Public Law 81-874 and section 16 of Public Law 81-815, and for other purposes)

Mr. SIMON. 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 Illinois [Mr. SIMON] proposes an amendment numbered 2955.

Mr. SIMON. 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 65, between lines 5 and 6, insert the following:

SEC. 306. IMPACT AID.

Notwithstanding any other provision of law, in carrying out the provisions of section 7 of Public Law 81-874 (20 U.S.C. 241-1) (as amended) and section 16 of Public Law 81-815 (20 U.S.C. 646) (as amended), the Secretary of Education shall reduce or waive the administrative guideline of a 25 percent non-Federal share upon a showing of—

(1) financial hardship by the State or political subdivision thereof in the provision of; or

(2) a good faith effort by the State or political subdivision thereof to provide;

the non-Federal share for purposes related to the disaster for which Federal assistance is sought.

Mr. SIMON. Mr. President, this is an amendment that is a technical amendment that I understand has been agreed to on both sides. It grows out of a tornado that we all read about and heard about in Illinois that killed 31 people, and the impact aid problem that a Plainfield, IL school has.

This is a technical amendment. I think it is completely noncontroversial. I would appreciate the support of the Members of the Senate.

Mr. HARKIN. Mr. President, I have no objection to the amendment of the Senator from Illinois, Senator SIMON. It has no budgetary impact on the bill.

Mr. SPECTER. Mr. President, the amendment has been reviewed on my side of the aisle. It is a meritorious amendment to which there is no objection.

Mr. SIMON. Mr. President, I want to thank the distinguished Senator from Iowa for recommending additional funding of $14 million under this bill such disaster relief assistance under the section 7 of the Impact Aid Program, and for his cooperation in working with me on this amendment.

In August of this year, a severe tornado hit Illinois, causing the loss of life and devastating the homes, businesses, and schools of several communities in northern Illinois. One school district, the Plainfield schools, in particular, suffered extensive damage, including the total destruction of the high school, an administration building, bus facility, and athletic fields, and the partial destruction of an elementary school.

Mr. President, a request for nearly $2 million in disaster relief assistance has been submitted by the Plainfield schools to the Department of Education and they anticipate that a supplemental request will be submitted. Their total request could reach nearly $3 million. The school system's needs are immediate and I hope that the Department of Education will move swiftly on this.

My amendment addresses a situation where the Department of Education has administratively adopted a rule requiring State or local matching contributions for disaster relief assistance at a level that may not be attainable for the Plainfield schools. My amendment would simply require the Secretary of Education to reduce or waive its guideline that requires State or local governments to provide nonfederal matching funds of 25 percent. This rule is not a statutory requirement under the Impact Aid Program, nor is it in the Department's own regulations as they pertain to disaster relief provided through that program. My amendment would simply require the Secretary to waive this guideline if the State or local jurisdiction can show that it is experiencing financial hardship, or has made a good faith effort to provide matching funds.

I thank, again, the Senator from Iowa, for his consideration of this amendment.

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

The amendment (No. 2955) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 2956

(Purpose: Strike funds appropriated for fiscal year 1992)

Mr. HELMS. 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 North Carolina [Mr. HELMS] proposes an amendment numbered 2956 to committee amendment, page 17, line 15.

Mr. HELMS. 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 17, line 15, strike out "$600,000,000" and all that follows through "That" on line 19, and insert in lieu thereof the following: "$159,000,000 is available for part A and part B of title XXVI of the Public Health Service Act: *Provided*, That".

Mr. HELMS. Mr. President, if Senators could have an opportunity to even glance through this appropriations bill, and I do not think many have, they will find first that it appropriates $11 billion over the amount requested by the President of the United States.

Next, they will see that $2.1 billion has been allocated soley for AIDS research and treatment. That amount is $561 million over the administration's request for AIDS programs.

Laying all that aside for just a moment, one of the problems with this bill is that it attempts to use more budget gimmicks to increase spending for AIDS beyond fiscal year 1991. I do not believe that Senators paid much attention to Senate rule XVI, which prohibits appropriations for out-years like this. You will notice that $441 million is shifted into fiscal year 1992 to fund the so-called AIDS emergency bill. This bill is supposed to be for fiscal year 1991.

We can debate later the merits of the enormous amounts of money we are spending already for AIDS, amounts that are far out of proportion to the AIDS impact on society. But in any event we should not be appropriating money for fiscal year 1992 before we even get our fiscal house in order for fiscal year 1991.

Therefore the amendment I have sent to the desk will simply delete that amount—$441 million—that this bill attempts to shift over into fiscal year 1992. It is obvious that we do not need the money in this fiscal year. So I think it is only prudent that we should not be trying to appropriate it into a future year.

Mr. President, during the past few weeks we have heard speech after speech about deficits, taxes, and getting our fiscal house in order. But then comes legislation like this, $11 billion more than the President of the United States said he could spend wisely, that attempts to start spending on projects in 1992 with money we do not even have.

As they say in North Carolina, that does not make even good nonsense.

Many Senators and many people around the country might look at this bill and wonder why we are proposing such an enormous amount for our AIDS program. I will tell you why, Mr. President, although a lot of folks do not want to hear it.

These funds, which come from millions of compassionate Americans, are being allocated to fund research and treatment of AIDS not because of its threat to society, but on the basis of media hype and who can make the loudest noise in the Halls of Congress.

I will remind you that AIDS activists have taken to the streets to point the finger at our so-called homophobic society, as they put it, which they claim is committing murder against them. In fact, as a distinguished editor of the New Republic, Charles Krauthammer, said, and I quote him:

American society is giving overwhelming and indeed disproportionate attention and resources to the fight.

Mr. President, look at the numbers in this bill and tell me if Americans have been inattentive to the problem of AIDS. The Federal Government spends 36.2 percent of its health budget on AIDS already, a disease which accounts for 1.3 percent of the deaths in this country. Shortly, in connection with another amendment, I am going to show the Senate some charts in this regard.

In this year, the Federal Government will spend a total of $4 billion on AIDS programs, and that includes money proposed in this bill in addition to other areas of the Government.

What are the facts? Influenza kills four times as many people in a year as does AIDS. So much for equity in the appropriations process.

In any event, Mr. President, the pending amendment puts Members who have spent the past few weeks talking about fiscal priorities on record. Do we continue down the slope toward disaster by catering to every vocal special interest or do we honestly assess the priorities according to common sense and the needs of society? That is the question.

There is no reason, no need, no justification to appropriate $441 million dollars for AIDS programs in the next fiscal year—not fiscal year 1991—but fiscal year 1992. That is what I am talking about. This amendment now pending restores a modicum of fiscal and public health sanity to the already bloated and inefficient Federal budget.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. 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. SPECTER. Mr. President, I ask unanimous consent that the order for other quorum calls be rescinded.

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

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the issue framed by the distinguished Senator from North Carolina relates to funding provided under the Ryan White Act, which is the very tragic case of the young man who lost his life due to AIDS. The total amount of the funding is at $600 million. But we do not have sufficient funds available this year, so we have taken the extraordinary task of making a commitment of $441 million for next year.

The one issue which was contested on this bill in the committee involved what we were doing for AIDS. There was an amendment offered by three distinguished Senators—Senator ADAMS, Senator D'AMATO, and Senator LAUTENBERG, in alphabetical order—asking for a reallocation of something in the range of $338 million, to take across the board 0.9 percent, almost a 1 percent cut out of any program in the bill that was increased above the leaseline. This amendment received extensive consideration in committee because of the seriousness of the AIDS problem.

It requires little argument to recognize the epidemic proportion of AIDS in America and how it is being transmitted, and how it is threatening the health and welfare of our country. It is a problem which goes far beyond any moral judgments, infecting people who have transfusions in hospitals, infecting a young man like Ryan White, so that the allocations which we have made, while very extensive in this bill—and Senator HARKIN and I have worked very hard to get funding—really is not enough to do the job.

The argument was made in subcommittee that Ryan White's mother was very discouraged with the lack of funding which had been forthcoming, even though we had put up these very substantial funds. My office and Senator HARKIN's office was inundated with calls from around the country. The mayors of major cities are very much concerned about the inadequacy of funding for AIDS. We have done as much as we can, but we have not done enough. The subject matter which is raised by the distinguished Senator from North Carolina, I suggest, ought to remain in the bill as a commitment for the future because of the extraordinary nature of this problem.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, there is no Senator in this body for whom I have more affection than ARLEN SPECTER, and he knows that. But the argument he has just presented is precisely the reason this Federal Government is in debt to the tune of $3.3 trillion.

I was with a group of young men from Wake Forest University a few minutes ago, and I was thinking about what they are going to have to confront because of the fiscal insanity of this Government. Let us see if we are underfunding research and other matters relating to AIDS. Bear in mind that over $3 billion is now in the pipeline. I do not know whether the Chair can see this chart, but this is Federal spending on disease research. Over here is AIDS, all the way to the top. Heart disease, cancer, and look down here at strokes, pulmonary, pneumonia, influenza, diabetes. Under rule XVI, you are not supposed to appropriate into a future fiscal year. I call that to the attention of the distinguished Presiding Officer.

But the point is that we all go home and say we are doing our best to balance the budget; that we are doing our best to do this and that and the other thing. Then we come back up here, and we have proposals like this. As far as I know, this Senate is going to be in session next year. I may not be here, but the House of Representatives, which has the original responsibility of appropriations, will be here.

Why start appropriating a year in advance? I say to the distinguished Presiding Officer that this is the kind of action by the Congress of the United States over a period of 40 years that has brought us to where we are.

I am not going to make a budget speech, although I could. I will say only that if there were some common sense in the Congress of the United States, and if there had been some common sense and some personal responsibility on the part of Members of Congress, as the President said the other day we would not be in the fix we are in.

They talk about the Reagan deficits and the Reagan debt and the Bush deficits and the Bush debt. But unless the Constitution has been changed when I was not looking, no President can spend one dime that has not been first authorized and appropriated by the Congress of the United States.

If anybody wants to complain about the national debt—and I do—look at who is responsible? This $3.3 trillion debt is Congress' $3.3 trillion debt. And this is a perfect example. I say that with all due respect for friendship with my friend from Pennsylvania.

I do not know how Senators will vote on this. But we do not have to appropriate a year in advance. In fact, Senate rule XVI prohibits us from appropriating a year in advance. I think that is enough justification for the pending amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I will be very brief. I see my colleague, a member of the committee, rising to speak.

I compliment Senator HELMS for the logic of his remarks. The thought occurred to me that it is no wonder that babies cry when they are first brought in the world and slapped by the doctor. It is because they recognize they are so far in debt, $3.3 trillion in debt.

I wanted to ask a question and maybe Senator HELMS or other Senators who are aware of the way this bill is broken out can answer. But if I heard correctly did I hear, Mr. President, the Senator from North Carolina say that 36 percent of our research dollars, Federal research dollars, are already committed to AIDS research; is that a correct figure?

Mr. HELMS. That is correct. Thirty-six percent is spent on AIDS, research, treatment, and education.

Mr. SYMMS. Thirty-six percent. And this is on top of the 36 percent?

Mr. HELMS. Yes. We have it on the chart. I had not shown the Senate my second chart yet. I will now. Now you can see. These are the various diseases. Heart disease gets 5.3 percent, cancer 30.3 percent, other 17.5, so forth. AIDS is on here somewhere.

Mr. SYMMS. Thirty-six, there it is.

Mr. HELMS. Yes, 36.2 percent.

Mr. SYMMS. Then 1.3 percent of the debt is AIDS.

Mr. HELMS. Yes. It accounts for only 1.3 percent of all deaths.

Mr. SYMMS. Thirty-six percent of the money?

Mr. HELMS. That is correct.

Mr. SYMMS. That is a classic example of the cause-and-effect relationship of special interest politics, applying pressure to the news media, the media making noise and creating this position. There is no other explanation for it.

Mr. HELMS. I agree with the Senator, obviously, particularly when we are in the midst of an obvious budget crisis in this country. As I said earlier, this is precisely the kind of activity by Congress—and I say this with all due respect to the Senators and Members of the House who worked on the appropriations bill.

But I do not see why we should violate rule XVI and attempt to appropriate money for a succeeding fiscal year at the beginning of this fiscal year.

I thank the Senator for his comments.

Mr. SYMMS. Mr. President, I thank the Senator from North Carolina for clarifying that and for the answer.

I would just say to my colleagues that my concern about everything we have been doing here of recent is that we continue to appropriate, appropriate, appropriate, and we talk about what the problem is. This is the very essence of what the philosophical division is all about in this Congress. We cannot raise enough taxes to continue to fund the Government at the fullest level for each cause that comes along. It just simply is not possible.

Mr. President, I recall very vividly that when I came to the House in 1973 H.R. Gross was still a Member of the House from Iowa, and he used to rant and rave about excessive appropriations bills and, God rest his soul, but if he could see what has happened in the last few years where we continue to appropriate and then we talk about tax increases then we find that if we do not want to vote for tax increases somehow we are being unpatriotic when in the reality the American people today are already being taxed 38 percent on their income for Government—State, Federal, and local government—38 percent of their income. How far is enough?

The only way we can head this off is to reduce these things slightly and not stop AIDS research. If I understand the Senator's amendment correctly, we will still have millions of dollars in trying to stop this dreaded disease and stop the spreading of it. I am concerned like all Americans that once it gets into the blood supply it creates all kinds of problems. Of course, that is a concern.

There is another concern here that can be even more and that is a disease in the American money supply, because all we have a choice to do is either tax people, borrow the money, or monetize the currency at the Federal Reserve. If we continue on the course of tax and spend and tax and spend and then print more money, we are all going to need banana lapel pins as the United States of America slids itself into the debt picture and becomes a banana republic like some of our friends in South America have.

I think we ought to try to avoid it and trim off the appropriations bills. I would like to spend not more than we spent last year on any of the appropriations bills. I think we can do that and use last year as the base.

The only place in the world that you can spend and spend more money than you did last year is Washington, DC. They do not do that anywhere else I know of. No company does it, no household does it, no State budget does it, no college does it, no university does it, no school district does it. They do not call it cutting spending when they spend more money than they spent last year.

I thank the Senator for offering the amendment, and I intend to vote for it.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I appreciate the Senator's comments. Bear in mind, that this bill to which I have offered this amendment is $11 billion more than the President of the United States has said he could spend wisely.

Does the Senator see the fiscal problem of operating the U.S. Government in this manner? We will spend $3.9 billion in fiscal year 1991, which this amendment will not touch—$3.9 billion in fiscal year 1991 for AIDS. And here we go leapfrogging into fiscal year 1992.

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

Mr. HELMS. Be glad to.

Mr. LAUTENBERG. Would the Senator clarify his development of the $2.9 billion figure because I believe that which is allocated to AIDS is substantially less than that? I believe it is approximately $1.6 billion through the Public Health Service. It would be helpful if the Senator could clarify that.

Mr. HELMS. In answer to that, I say to the Senator, that I am talking about overall Federal spending for AIDS.

Mr. LAUTENBERG. I heard the Senator very clearly talk about $2.9 billion.

Mr. HELMS. Correct. That is overall.

Mr. LAUTENBERG. Would the Senator mind identifying what the categories are that build this $2.9 billion figure. It is my understanding that the AIDS funding we know about with certainty is about $1.6 billion through the Public Health Service for research, prevention, and a very small amount of AIDS care funding.

Mr. HELMS. That is certainly a fair question, I say to the Senator. The Senator understands that this bill was just made available to be examined.

Now, I do not know whether the Senator wants me to go down orally on this question and answer his question or whether it will suffice to put it in the RECORD.

Mr. LAUTENBERG. No; in general categories will be all right.

Mr. HELMS. OK.

Mr. LAUTENBERG. Because I cannot get from $1.6 billion in discretionary funding through the Public Health Service to $2.9 billion. Perhaps there is some way.

Mr. HELMS. Well, you have on your desk, I say to the Senator, the Departments of Labor, Health, and Human Services, and Education, and related agencies appropriations bill. I suggest you turn it to page 28, and we will follow it together, and see if I am right.

Mr. LAUTENBERG. If the Senator would permit me a moment to check with the Labor-HHS staff.

Mr. HELMS. I suggest the absence of a quorum so the Senator can do that.

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

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

Mr. LAUTENBERG. Mr. President, if I might respond to the Senator from North Carolina, because I posed the question, I feel in fairness, that I ought to acknowledge the fact that there is a figure on AIDS that he has produced that includes other departments besides those enumerated in the Labor-HHS bill. It includes $870 million through entitlement programs like Medicaid, which is based on soft data. I understand the Health Care Financing Administration has cautioned that these figures are based on soft data. I think the better figure to use is the $1.6 billion one, spend through the Public Health Service.

I thank the Senator for his courtesy.

Mr. HELMS. I thank the Senator.

Mr. President, I attempted to make clear that I was talking about overall Federal spending for AIDS. The Senator from New Jersey, with his customary courtesy, has acknowledged that that is a fact.

Mr. President, I do not have anything further to say. Therefore, 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. LAUTENBERG. 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. LAUTENBERG. Mr. President, I will not take much time from the Senate, but I do want to reiterate, in my view, the reasons for providing funding for treatment and care of AIDS patients and for health care systems that are bearing the brunt of the AIDS epidemic.

We had a vote in this body that was 95 to 4 to fund the Ryan White AIDS CARE bill at $600 million. In the process of the deliberations of the House in conference committee, the figure came out to about $880 million.

Mr. President, it is true that we spend substantial sums of money on research for AIDS. The problem is that we do not spend much at all, nowhere near enough, to deal with care for AIDS and for health care systems that are hard hit by the epidemic.

The therapy that is available does not seem to do what is required. One thing is sure: if you have an active AIDS condition, you are going to die. There is not anything that we can say now to AIDS patients that is going to give them a significant measure of hope. But what we ought to do, is at least give these people an opportunity to hang on long enough so that when and if, pray God, something is developed, a discovery is made, that they can get treatment before they have to leave this world at age 20, 30, or 40, or 45, which is when most of the people inflicted with AIDS die.

It is cruel and inhuman to talk about the budget process when we discuss AIDS. People are dying all around America. A staffer that I had, a brilliant man, died of AIDS. He should not have died at age 35.

We are asking for forward funding because the AIDS epidemic demands a response.

What we are looking for is some relief for health care systems being pushed to the limits by an epidemic. Mr. President, if we had a fire, we would call out the fire engines. This requires the biggest fire engine we have. People are dying.

We are not talking about research. We are not talking about discoveries for tomorrow. We do not spend enough on cancer and Alzheimers and asthma and all; we do not spend enough in this country because those diseases still plague our society. We are talking about care dollars—money for health care systems.

But AIDS, AIDS gets looked at askance, like it is someone else's disease; "It is not our family, it is not our State, it is not our community; the disease belongs to someone else."

Well, it does not belong to "them" and we need to recognize that about 90 thousand people have died from AIDS already in this country. That is more people than we lost in Vietnam. AIDS is spreading quickly.

We have a plague on our hands, Mr. President. An epidemic is sweeping our country. I think it is cruel and inhuman to discuss here whether or not we can afford it.

I can tell you lots of things that we cannot afford. We cannot afford to continue growing tobacco that we know will ultimately wind up in someone's lungs and put them in the hospital and cost this country billions of dollars, far more than the $441 million that is proposed for the next fiscal year. We cannot afford to spend billions of dollars, some $60 billion, as a result of people's smoking habits. So we should not spend a dime encouraging that.

If we spent less on tobacco, we would have less people die, less people suffering, less people with emphysema and less people that we all have to pick up bills for.

Mr. President, Mrs. White, Ryan White's mother, came down here. I stood with her, with Senator D'AMATO's and Senator ADAMS, in front of the TV cameras when she pleaded that the funding that was authorized for this program be provided. She did not want her son's name lended to an unfunded law.

Ninety-five to four, Mr. President, was the vote on the Ryan White AIDS Care Act. The Senate said it intended to provide relief when it approved that law. Frankly, I think we ought to stand up and honor our commitment to Mrs. White and the memory of Ryan White, who captured the interest of everyone in this country. Ryan White was 11 years old. When he died from AIDS—he got AIDS from an unknown donor's blood. We can't ignore that and walk away from our commitment to provide funds for this law and for emergency relief.

It is time, Mr. President, to focus our responsibilities, and make good on our promise to provide relief. I hope our colleagues will reject this amendment as it deserves to be.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Iowa.

Mr. SYMMS. I just wanted to ask one question. Was the Senator moving to table or something?

Mr. HARKIN. No, I am just going to talk on the amendment, but I will yield.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. I yield the floor.

Mr. SYMMS. That is all right, if the Senator wants to go ahead.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I thank the manager of the bill. I am sorry; I did not mean to crowd him out.

But I would just ask a question. I thought the amendment of the Senator from North Carolina knocked out the money from fiscal year 1992. Is that not correct? Well, the Senator from the New Jersey in his impassioned speech he just gave is not being precluded from putting this money back in the bill next year; is that not correct? Are we talking about two different bills here?

Mr. LAUTENBERG. It has to be apparent to my colleage from Idaho that was supposed to be in this year. And I still hope more can be provided this year. That is what we voted on, in the AIDS Care Act—AIDS emergency relief this year.

So what we are doing in hanging on by our fingernails and praying to God we can hold on to it next year. We would at least like that assurance. I would like to stand in front of Mrs. White and say, "Mrs. White, we are delivering late, but we are delivering on our promise."

Mr. HARKIN. If I might respond to that question, I appreciate it. I was going to mention that in my remarks.

Mr. SYMMS. Certainly.

Mr. HARKIN. Again, I am sort of caught in the middle here. I agree with everything the Senator from New Jersey said. We have to defeat this amendment and keep the money in.

The Senator from Idaho has raised the question of this being forward funded. Let me point out, it has been common practice to forward fund programs like this. The Corporation for Public Broadcasting, the one that just did the recent series on the Civil War that was so highly acclaimed, got forward funded 2 years in advance. Medicaid and AFDC are partially funded in advance. Payment to the health care trust funds for Medicare are funded in advance. Supplemental security income and black lung benefits are also advance funded.

The advanced funding for AIDS in this bill simply guarantees a further Federal commitment to AIDS care in fiscal 1992. The cities that have to bear a very heavy burden, usually in their public hospitals, for these AIDS victims—and we know their numbers are increasing precipitously, there are many more cases—I think it is in the best interests of all of us to let them know we have funding this year of $159 million, but to let them know next year—we have a commitment to fully fund the program the next year thereafter. I think that will relieve a lot of the burdens on our hospitals in some of these larger cities.

That is the primary reason for having the advanced funding in there.

The PRESIDING OFFICER. The Senator from Pennsylvania—has the Senator from Iowa yielded the floor?

Mr. HARKIN. If I may finish my remarks, I will let the Senator from Pennsylvania wrap it up.

For the record, Mr. President, I wanted to say the committee bill includes $600 million for the Ryan White AIDS Care Bill. There is $159 million included in fiscal 1991; $441 million included for fiscal 1992.

Of the forward funding amount, $251 million is for disaster relief for 16 high-impact cities and other heavily impacted areas; $290 million is forward funded for all of the States for fiscal year 1992.

The amendment of the Senator from North Carolina would strip out all of that money that is forward funded for fiscal year 1992.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, just a very brief comment by way of reply to what the distinguished Senator from North Carolina said, and the comment of the distinguished Senator from New Jersey. I believe this budget is appropriate middle ground. I acknowledge what Senator HELMS has had to say about our deficit problems. But AIDS is a national problem which requires a national solution.

Senator LAUTENBERG has spoken eloquently on the subject of the need for further funding here. But we are not breaking the bank. We are not raising the roof. This appropriations bill is within our 302(b) allocation. That is the fancy technical language that means we are complying with the Budget Act. We are meeting our responsibilities in deficit reduction and doing the best we can on this important program.

I yield the floor.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina. Is there further debate?

Mr. BRADLEY. Mr. President, I rise to vigorously oppose the amendment proposed by the Senator from North Carolina to strike the budget authorization of $441 million for AIDS care for the period October 1, 1991, through September 30, 1992.

I rise in support of the committee's recommendation that even in this difficult budget environment, we devote funds to those facilities at the front line in care for victims of AIDS. I am disappointed that in this wealthy country, we could not find the consensus or the will to devote more resources to develop a substantial, humane system of care for our citizens who are deeply affected by this epidemic, but I am happy that close to $49 million was found to provide relief to the hardest hit health care facilities this year. America's health care facilities are buckling under the weight of caring for individuals with AIDS and they need the emergency relief provided in this bill. And communities need help to build a network of humane home and community systems to care for our citizens with AIDS. I am hopeful that the $441 million in budget authority approved for next year will materialize to enable the development of this network. I am pleased that the current appropriations package will provide approximately $2.2 million to hard-hit hospitals in Newark and $1 million for Jersey City.

Mr. President, many of my colleagues have spoken about the vast human tragedy that this epidemic has created in this country. Others have talked about the tragedy yet to unfold as hundreds of thousands of Americans infected with the virus develop the disease. This country has made remarkable strides in treating the deadly infections that accompany the disease and has developed treatments to mitigate the destruction that the virus brings to individuals. This progress is extremely costly.

As we begin to be able to offer some hope to Americans with AIDS, the cost per case rises because victims will live longer. Many don't belong in hospitals. They have a substantial chance of leading a normal life. The crucial challenge for this country will be in our ability to support a health care system that will provide these patients with the valuable services needed to keep them alive as functioning members of our society. The task for communities will be to invite these citizens back to a full and productive life while supporting their health and service care needs brought about by the infection.

Mr. President, in my home State of New Jersey, nearly 10,000 citizens have been afflicted with the disease. The tragedy of AIDS in New Jersey is compounded by the high proportion of women and children among those affected. While AIDS in children constitutes less than 2 percent of the cases nationwide, nearly 11 percent of the children afflicted live in New Jersey. Heterosexuals and children constitute the highest proportion of cases in my State.

Mr. President, hospitals treating the highest proportions of AIDS patients need this bill. Hospitals who treat AIDS patients are losing as much as $200 a day on each person that they treat. They need financial assistance to avoid buckling under the burden of this caseload. We must support these acute care hospitals while we work to develop community-based systems.

Mr. President, I urge my colleagues to expeditiously enact this important piece of legislation. It is a needed and humane measure that will help alleviate some of the misery inflicted by a tragic epidemic.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I move to table the amendment of the Senator from North Carolina.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Oregon [Mr. HATFIELD], the Senator from Alaska [Mr. STEVENS], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] and Senator from

Alaska [Mr. STEVENS] would each vote "yea."

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

The result was announced, yeas 70, nays 24, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—70

| | | |
|---|---|---|
| Adams | Exon | McCain |
| Akaka | Fowler | McConnell |
| Bentsen | Glenn | Mikulski |
| Biden | Gore | Mitchell |
| Bingaman | Graham | Moynihan |
| Boren | Harkin | Murkowski |
| Bradley | Hatch | Nunn |
| Breaux | Heinz | Packwood |
| Bryan | Hollings | Pell |
| Burdick | Inouye | Pryor |
| Byrd | Jeffords | Reid |
| Chafee | Johnston | Riegle |
| Coats | Kassebaum | Robb |
| Cohen | Kasten | Rockefeller |
| Conrad | Kennedy | Sanford |
| Cranston | Kerrey | Sarbanes |
| D'Amato | Kerry | Sasser |
| Danforth | Kohl | Shelby |
| Daschle | Lautenberg | Simon |
| DeConcini | Leahy | Specter |
| Dixon | Levin | Warner |
| Dodd | Lieberman | Wirth |
| Dole | Lugar | |
| Durenberger | Mack | |

NAYS—24

| | | |
|---|---|---|
| Armstrong | Gorton | Nickles |
| Baucus | Gramm | Pressler |
| Bond | Grassley | Roth |
| Boschwitz | Heflin | Rudman |
| Burns | Helms | Simpson |
| Cochran | Humphrey | Symms |
| Ford | Lott | Thurmond |
| Garn | McClure | Wallop |

NOT VOTING—6

| | | |
|---|---|---|
| Bumpers | Hatfield | Stevens |
| Domenici | Metzenbaum | Wilson |

So the motion to lay on the table the amendment (No. 2956) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If the Senator will suspend for one moment, Senators will clear the aisle, the well, and refrain from audible conversation, and allow the Senator from North Carolina to be heard.

Mr. HELMS. Mr. President, I thank the Chair very much.

AMENDMENT NO. 2957

(Purpose: To obligate certain funds for use in programs promoting the health of children and the elderly)

Mr. HELMS. 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 North Carolina [Mr. HELMS] proposes an amendment numbered 2957 to committee amendment on page 17, line 15.

Mr. HELMS. 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 18, end of line 2, insert:

That the Secretary of Health and Human Services shall make available not less than $120,000,000 from amounts otherwise appropriated for programs relating to AIDS as follows:

"(1) $60,000,000 of such amount shall be made available to the National Institute of Child Health and Human Development for programs relating to the prevention of infant mortality and sudden infant death syndrome, child health research centers, and mental retardation in children; and

"(2) $60,000,000 of such amount shall be made available to the National Institute on Aging for programs relating to Alzheimer's disease:

*Provided further,".*

Mr. HELMS. Mr. President, I am going to attempt to demonstrate, and I think I can successfully do so, the priorities in this bill seem to me to be rather badly skewed. Let me say at this point at the outset that all of us hate to see anyone die, whether it is from AIDS, sudden infant death syndrome, cancer, or whatever.

I do not intend to suggest that, and I never have, we should treat any disease, especially AIDS lightly. What I do suggest now, and what I have suggested heretofore is that we must in fairness to all American taxpayers consider carefully our priorities when we determine how to allocate our funds for research and treatment of various diseases.

The amendment that I had proposed earlier was defeated, as I knew it would be. I thank Senators who supported it. I think there were 24.

I was simply making the point, Mr. President, that among other things this bill appropriates $11 billion more than the President of the United States requested, $11 billion more than he believes he can spend wisely.

Yet we run around here like a chicken with its head cut off, trying to come up with some sort of reasonable budget. The process needs to start earlier than a bunch of Senators sitting around trying to dream up some magical potion that cannot work, to try to fix the mess we are in. We certainly have not done the job of protecting the coming generations from the nearly $300 billion Federal debt that is now hanging like a plague over the United States of America. Everybody has an instant solution for every problem. You can watch the promising politicians every time. They promise everything, and then they get up here and what do they do? They want to solve problems by throwing money at them.

An objective look at the facts, the arithmetic, shows that the funding in this bill is for some reason inordinately concentrated on AIDS. Let me say again just for the point of emphasis, and at the risk of being repetitive, AIDS is a terrible disease. There is not a Senator in this body who understands that more clearly than I. I sympathize with those who have it, especially the innocent people who have it, especially the babies who are born with it.

I sympathize. All Senators do. But I also sympathize with those who die from cancer and heart disease and other killer diseases. Why in the name of Heaven should we ignore these difficult diseases while we are spending inordinate amounts of money on AIDS?

That is the purpose of this amendment, to shift just $120 million from the overfunded public health service budget for AIDS into two programs, one of which will benefit the elderly, and one which will benefit infants.

This amendment puts $60 million into the National Institute for the Aging for Alzheimer's research, and $60 million into the National Institute of Child Health and Human Development for the fight against infant mortality, sudden infant death syndrome, and mental retardation.

This amendment addresses only a small part of the overall Federal budget, but it sends a message that our health and fiscal priorities need to be changed.

Let me first address myself to the priorities in this bill. The Labor-HHS appropriations bill contains more than $2 billion—$2 billion—in AIDS research, education, and treatment programs. In fact, AIDS spending is so far out of control it is the only disease which gets its own chapter in the committee report. I suggest that Senators look at that.

The report states that the number of AIDS cases in America rose 9 percent last year—9 percent. Yet, the AIDS budget has gone up 37 percent in 1 year's time.

Let us take a look at some charts.

The green column, as I have indicated, indicates the number of deaths caused by each disease in 1989, which are the latest figures available. The orange column is the amount of money spent on research in 1989.

Let us break these numbers down a little bit, so we can perhaps understand better, what all of this shows about our priorities.

In 1989, 731,000 people died of heart disease, and we spent $219 million on research for heart disease. Also that year, 494,000 people died of cancer, and we spent $1.240 billion on research for cancer. But compare that, or contrast it with funding for AIDS. During 1989, AIDS was responsible for 22,000 deaths; a tragic number. One death is a tragic number. But these 22,000 deaths from AIDS constitute less than

half of the number of Americans who died of diabetes and less than one-third of the number who died of influenza.

Do you begin to get the picture, Mr. President? We have spent more on AIDS-related research than we have spent on research for heart disease and cancer combined.

The second chart is even more graphic.

As Senators can see from the pie chart, on the right, 36.2 percent of the Federal and health research, education, and prevention budget is spent on AIDS—36 percent. The chart, on the left, shows AIDS accounts for only 1.3 percent of all the deaths in America; a great tragedy. I chose to use the title on the chart of "distorted priorities," because I believe that is what it is.

Mr. President, there is an AIDS lobby. It is a erudite group of people. They know how to lobby. They know how to scare some politicians, and they say that such out-of-control and unfair spending is warranted because of the greed and indifference of our society.

This AIDS lobby also argues that we have to take into account the years of lost productivity as justification for such spending.

Let us examine that argument for just a moment. Chart three indicates the causes of death among people under age 45. This demonstrates which diseases result in the most productivity by showing the number of deaths caused among people under the age of 45. You can see the long line for cancer, 24,052; prenatal conditions, 18,527; heart disease, 17,520; AIDS, 12,912.

Mr. President, in this country, approximately 39,000 children die before the age of 1. That is 64 years of lost productivity for each such death among the most helpless, most innocent segment of society.

This amendment at the desk simply attempts to move our priorities back just a little bit in order to do something about this by shifting $60 million into the fight against infant mortality.

The authors of this legislation—and I respect them, and they are my friends—claim that AIDS threatens the very foundation of America's health system. In fact, a typical AIDS case costs the same as that of a patient who suffers from terminal cancer.

But the fact is, since AIDS patients are such a small percentage of our patient population, the reported cost of AIDS cases this year will be about $2 billion, or less than 1 percent of the total U.S. medical costs.

The National Commission on AIDS says that the disease deserves more funding because it is contagious, while diabetes, cancer, and heart disease are not. In fact, Mr. President, AIDS is contagious through behavior. A change in behavior among two high-risk populations—homosexual men and IV drug users—would reduce the spread of this disease more than one more dime of Federal money on education program.

Mr. President, according to the distinguished publication Commentary—and I am going to put that in the RECORD—AIDS is such an isolated disease that a homosexual male who lives outside areas such as New York and Los Angeles and San Francisco has less chance of getting AIDS than he does of dying of cancer or heart disease.

The unwarranted concentration of Federal resources on AIDS, has created problems for other diseases such as Alzheimer's, the cruel devastating killer of senior citizens, which afflicts, by the way, 4 million Americans and takes more lives in 10 months than AIDS has taken in 10 years.

So this pending amendment adjusts our priorities by shifting the $60 million into the Alzheimer's programs of the National Institute on Aging.

Let me repeat: programs such as Alzheimer's research and cancer research have suffered; AIDS is swallowing up dollars and researchers every day.

Dr. Vincent DeVita, before resigning as director of the National Cancer Institute, said "AIDS has been an extraordinary drain on the energy of the scientific establishment." AIDS has so drained Federal cancer research that new research funding for cancer is at a two decade low.

Then I was very much interested in a statement by Dr. Robert Young, who is now president of the American Society of Clinical Oncology, who said, "The superstructure of cancer research is being dismantled." While NIH lost 1,100 researchers in the last 5 years, the number of employees engaged in AIDS research has increased by about 600.

So let me emphasize once more this amendment is about priorities. Many Americans will die because of the politically driven agenda of the AIDS lobby. Remember this legislation spends $561 million more on AIDS than the President of the United States requested; yet this Senate bill would spend $8 billion less than the House did on the National Institute of Child Health, and by extension its infant mortality program.

I do not think that is fair. I do not think it is wise. I do not think it is prudent. The American people are often accused of being indifferent to the suffering of the AIDS community, but a look at this appropriation bill certainly says otherwise. Under our current pattern in 1991 we will spend almost $4 billion on AIDS-related programs. We are spending more money on AIDS education than we are spending on Alzheimers.

There was an article back in June in the Washington Times which commented:

It is past time for AIDS activists to acknowledge that greed and indifference, such as they are, do not kill, but irresponsible behavior does.

Mr. President, a lot of unpleasant things have been said about this Senate because I have felt obliged to dissent from the pressure and the wishes of the AIDS lobby. But I am no longer alone in my fight. The dam is starting to break. As I said I would earlier in my comments, I have several articles that I want to print in the RECORD.

I will ask unanimous consent that the following be printed in the RECORD at the conclusion of my remarks. I refer to Charles Krauthammer's essay in Time magazine entitled, "AIDS: Getting More Than Its Share?" Then an editorial from the Washington Times on June 28, 1990, entitled, "AIDS Blame Game." Then the magazine Commentary has an excellent article that Senators ought to read entitled, "Are We Spending Too Much on AIDS?" Finally, and certainly not least, a letter written to Senators by the distinguished Senator from Colorado [Mr. ARMSTRONG] back in September on the impact the Nation's 20 top diseases have on our society.

Mr. President, I ask unanimous consent that all the aforementioned items be printed in the RECORD.

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

AIDS: GETTING MORE THAN ITS SHARE?

(By Charles Krauthammer)

Last month a thousand demonstrators camped outside the National Institutes of Health near Washington and with a talented display of street theater protested governmental and scientific neglect of AIDS. If not the angriest demonstration Washington has seen in a long time, it was certainly the most misdirected. The idea that American government or American society has been inattentive or unresponsive to AIDS is quite simply absurd. Consider:

*Treatment.* Congress is about to do something extremely rare: allocate money specifically for the treatment of one disease. The Senate voted $2.9 billion, the House $4 billion over five years for treating AIDS. And only AIDS. When Senator Malcolm Wallop introduced an amendment allowing rural districts with few AIDS patients to spend the money on other diseases the amendment was voted down, 2 to 1.

*Research.* Except for cancer, AIDS now receives more Government research money than any other illness in America. AIDS gets $1.2 billion to $1.3 billion. Heart disease, for example, receives about half as much, $700 million. The AIDS research allocation is not just huge, it is hugely disproportionate. AIDS has killed 83,000 Americans in nine years. Heart disease kills that many every six weeks.

*Testing.* Under pressure from AIDS activists, the FDA has radically changed its regulations for testing new drugs. The Administration has proposed "parallel track" legislation that would make drugs available to certain patients before the usual testing process is complete. Nothing wrong with this. But this exception is for AIDS patients only—a fact that hardly supports the thesis that government is holding back an AIDS cure or discriminating against AIDS patients.

The suffering caused by AIDS is enormous. Sufferers deserve compassion, and their disease deserves scientific inquiry. But AIDS has got far more. AIDS has become the most privileged disease in America. Why? Mainly because its victims are young, in many cases creative and famous. Their deaths are therefore particularly poignant and public. And because one of the two groups that AIDS disproportionately affects (gay men) is highly organized. This combination of conspicuousness and constituency has allowed AIDS activists to get more research funding, more treatment money and looser drug-testing restrictions than any comparable disease.

Nothing wrong with that. The system for allocating research and treatment money in American medicine is archaic, chaotic and almost random anyway. Under the "Disease of the Month Club" syndrome, any disease that has in some way affected a Congressman or some relation gets special treatment. There is rough justice in this method of allocation because after a while Congressmen and their kin get to experience most of the medical tragedies that life has to offer. At the end of the day, therefore, funds tend to get allocated in a fairly proportionate way.

AIDS is now riding a crest of public support, won in the rough and tumble of politics. All perfectly legitimate, and a tribute to the passion and commitment of AIDS activists. But that passion turns to mere stridency when they take to the streets to protest that a homophobic society has been ungenerous and stingy in its response to the tragedy of AIDS. In fact, American society is giving overwhelming and indeed disproportionate attention and resources to the fight.

At first the homosexual community was disoriented and defensive in reaction to AIDS. In the quite understandable attempt to get public support, it fixed on a strategy of claiming that AIDS was everyone's problem. Since we were all potential sufferers—anyone can get AIDS, went the slogan—society as an act of self-protection should go all out for cure and care.

This campaign was initially successful. But then it ran into an obstacle. It wasn't true, AIDS is not everyone's problem. It is extremely difficult to get AIDS. It requires the carrying out of specific and quite intentional acts. Nine out of ten people with AIDS have got it through homosexual sex and/or intravenous drug use. The NIH demonstrators, therefore, now appeal less to solidarity than to guilt; every person who dies is more blood on the hands of a society unwilling to give every dollar demanded for a cure.

But society has blood on its hands every time it refuses to give every dollar demanded by the cancer lobby, the heart disease lobby, the diabetes lobby. So now a different tack: the claim that the AIDS epidemic is, of course, not an act of government but an act of God—and government has not done enough to help its helpless victims.

In fact, AIDS is far less an act of God than is, say, cancer or diabetes. Apart from a small number of relentlessly exploited Ryan White-like exceptions, the overwhelming majority of sufferers get AIDS through some voluntary action: sex or drug abuse. You don't get AIDS the way you used to get TB, by having someone on the trolley cough in your face. You don't get it the way you get, say, brain cancer, which is through some act of God that we don't understand at all.

AIDS is in the last class of diseases whose origins we understand quite well. It is behaviorally induced and behaviorally preventable. In that sense it is in the same moral class as lung cancer, the majority of whose victims get it through voluntary behavior, well known to be highly dangerous. For lung cancer the behavior is smoking; for AIDS, unsafe sex (not, it might be noted, homosexuality) and IV drug use.

As a society we do not refuse either to treat or research lung cancer simply because its sufferers brought it on themselves. But we would find it somewhat perverse and distasteful if lung cancer sufferers began demonstrating wildly, blaming society and government for their problems, and demanding that they be first in line for a cure.

Many people contracted AIDS before its causes became known, about six years ago. For them it is truly an act of God. For the rest (as the word has gone out, an ever increasing percentage), it is an act of man. They, of course, deserve our care and treatment. But it is hard to see from where they derive the claim to be first in line—ahead of those dying of leukemia and breast cancer and stroke—for the resources and compassion of a nation.

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[From the Washington Times, June 28, 1990]

AIDS BLAME GAME

(By Mona Charen)

I don't know about you, but I'm tired of being blamed for the AIDS epidemic.

So much of what travels under the name of AIDS education or homosexual activism is really an accusation of heterosexual culpability. Consider the advertisements being carried on Chicago buses. One panel depicts two men kissing, a second shows two women kissing and a third shows an interracial couple kissing. The tag line reads, "Kissing Doesn't Kill, Greed and Indifference Do."

While the statement "Kissing doesn't kill" is literally true, the implication—that individual sexual behavior is irrelevant to the spread of the disease—is absurd. And what about the reference to greed and indifference? Is it the greed of intravenous drug abusers who sell sex for dope? Or the indifference of promiscuous homosexuals who don't bother to get tested? Doubtful. They're talking about our greed, fellow taxpayer, yours and mine.

Our guilt is also the strong implication of those who shouted down Health and Human Services Secretary Louis Sullivan at the Sixth International AIDS conference in San Francisco over the weekend. Members of ACT UP unfurled a pink banner reading, "He talks, We die," and created such a din that only those who could understand the translator for the deaf "heard" his words.

Earlier in the week, protesters were arrested outside the headquarters of the Immigration and Naturalization Service office in San Francisco. Angry at an INS decision to deny visas to foreigners who test positive for HIV, the protesters chanted. "You can't hide; we charge * * *

There is also a veiled accusation in the famous AIDS quilt which the media treat so reverently. I'm not saying that the deaths from AIDS are not tragic, nor that memorializing those who have died is inappropriate. Of course not. But why spread the quilt on the Mall, between the Lincoln Memorial and Washington Monuments? Displaying it there implies broad government guilt for the tragedy of AIDS. The quilt has become the largest bloody shirt in political history.

But the accusation is slanderous. We are now spending more taxpayer dollars on AIDS research, treatment and education than on any other single disease. And we are spending more on AIDS than on diseases which, in sheer numbers, take a much higher toll. In 1989, 21,488 patients died of AIDS, according to the Centers for Disease Control. (The number may be slightly understated due to delays in reporting.) Since the beginning of the epidemic, AIDS has taken 81,906 lives. That's a terrible blight.

But the world is full of horrible diseases. Each year, 40,000 women die of breast cancer, and a few million dollars would buy a lot of mammograms. Indeed, more than a million Americans are diagnosed with cancer each year, and about half die of it. Three-quarters of a million people will die of heart disease in 1990.

Yet federal funding to the Public Health Service for AIDS is $1.6 billion annually, as much as we spend on cancer, and a third more than we spend on heart disease. Is this the "greed and indifference" the Chicago bus ads are talking about?

When will the homosexual lobby take responsibility for its own actions? A new report presented at the AIDS conference in San Francisco reveals that so-called "unsafe sex practices" are on the rise again among homosexual men. Unprotected anal intercourse, the royal road for the AIDS virus, is back among blacks and men under 30.

Jean McGuire, executive director of the AIDS Action Council told the Washington Post, "To stop AIDS, we're going to have to be more explicit. We are going to have to spend more money."

Enough. We already spend $400 million annually on AIDS education. This is on top of the zillions of hours of free education provided by the media. Everyone in the world already knows that anal sex transmits AIDS, and studies show that knowledge has little impact on decisions about sexual behavior.

It's past time for AIDS activists to acknowledge that greed and indifference (such as they are) do not kill, but irresponsible behavior does.

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[From Commentary, October 1900]

ARE WE SPENDING TOO MUCH ON AIDS?

(By Michael Fumento)

If there is one thing Americans seem to agree upon about AIDS, it is that we are not spending enough on the disease. "The government has blood on its hands," reads a bumper sticker that is ubiquitous in major cities, "one AIDS death every half hour." AIDS activists, who are fond of asserting that AIDS is "not a homosexual disease," tell us in the same breath that the failure to spend more on it constitutes genocide against homosexuals. A recent public-opinion poll shows, indeed, that most Americans favor increasing spending on AIDS.

But consider. This past year, reported cases of AIDS in the U.S. increased only 9 percent over the previous year's tally. The federal Centers for Disease Control (CDC) of the Public Health Service (PHS) has been forced to lower greatly both its estimate of

current infections and its projections of future cases. The World Health Organization, similarly, has lowered its original estimate of as many as 100 million infections by 1990 to a current eight to ten million. New York City, AIDS capital of the nation, has lowered its estimate of current infections from 500,000 to about 150,000.

Nor has the long-expected "breakout" of AIDS into the heterosexual middle class shown any sign of occurring. Former Surgeon General C. Everett Koop, who probably coined the expression "heterosexual AIDS explosion," now claims he knew "from the very beginning" that such a thing would never happen; Gene Antonio, author of *The AIDS Coverup!* (300,000 copies in print), which predicted as many as 61 million infections by this year, now denies having made such a prediction. At the recent international AIDS conference in San Francisco, Dr. Nancy Padian put another nail in the coffin of the "breakout" theory when she reported the results of her study of 41 couples among whom the woman was originally infected and the man was not; over a period of years, only one man became infected, and that only after both he and his partner had experienced penile and vaginal bleeding on over 100 occasions.

This year, AIDS dropped from being the 14th biggest killer of Americans to number 15. Heart disease this year will kill about 775,000 Americans, a figure perhaps 20 times as high as the number of Americans who will die of AIDS in the next twelve months. In the next two months cancer will kill almost as many people as have died of AIDS in the course of the entire epidemic.

Nevertheless, the *current* PHS allocation of about $1.6 billion for AIDS research and education is higher than that allocated for any other cause of death. In 1990, the CDC will spend $10,000 on prevention and education for each AIDS sufferer as opposed to $185 for each victim of cancer and a mere $8.50 for each cardiac patient. Total federal research expenditures on AIDS this year will be more than 100 percent of nationwide patient costs; in the case of cancer, the corresponding ratio of research-and-development spending to patient costs is about 4.5 percent, in the case of heart disease about 2.9 percent, and in the case of Alzheimer's disease, less than 1 percent.

AIDS activists have answers to these statistics. Since AIDS strikes most often in the prime of life, they urge us to consider the years of lost productivity as a cost that could be avoided by more spending now on AIDS research. Yet every year cancer and heart disease *each* kills more than 150,000 Americans below the age of sixty, while this year AIDS will kill around 30,000 persons of all ages. Nor do the calculations of years lost take account of the fact that intravenous drug abusers, who make up a growing portion of those affected by the disease, have a very low life expectancy and an even lower expectancy of productivity.

But, say AIDS activists, the disease is overwhelming the nation's health-care system, and this alone justifies increased spending on research. A figure repeated often in the media has been the Rand Corporation's estimate that by 1991, direct medical costs for AIDS (that is, medical expenses only, with lost wages not included) could be as high as $133 billion, with up to $88 billion in 1991 alone. *U.S. News & World Report* flatly declared. "What is now becoming clear to an array of leaders—in medicine, business, government, and academia—is that AIDS not only threatens untold death and suffering but could bankrupt America's health system as well." In fact, however, a typical AIDS case costs approximately the same as a terminal cancer case, about $40,000 to $50,000, which means that the 35,000 reported AIDS cases last year will end up costing the nation something less than $2 billion, or considerably less than 1 percent of this year's total U.S. medical costs of approximately $650 billion.

Of course, localized emergencies can exist. New York City's hospital system, running poorly even before AIDS, is clearly in a state of crisis even though cases in that city have peaked. The reason New York, San Francisco, Los Angeles, and other such cities have been hit so hard by AIDS is that they are refuges for homosexuals and drug abusers. With that in mind, the House and Senate are seeking to authorize $2.9 billion and $4 billion, respectively, over the next six years, mostly for these hard-hit cities and states. (Ironically, the bill has been cast as emergency relief for rural areas, apparently in the belief that voters have more sympathy for the problems of Peoria than for those of San Francisco or New York.) This special allocation for AIDS, which comes on top of an earlier special allocation to subsidize the drug AZT, is almost without precedent. There is nothing similar for people with heart disease or cancer or diabetes or lupus or any number of other potentially fatal diseases (with the exception of end-stage renal disease).

What about the assertion that AIDS deserves more funding because it is contagious, while heart disease and cancer are not? In fact, AIDS is contagious almost exclusively through behavior, and modification of that behavior could in theory reduce future AIDS cases virtually to zero without another penny spent on research and without a single medical breakthrough. An as-yet uninfected homosexual who avoids high-risk behavior will almost certainly never contract AIDS; but his chance of dying of cancer remains one in five. Indeed, male homosexuals outside of such high-incidence areas of San Francisco, Los Angeles, and New York, and whose HIV status is unknown, currently have less chance of getting AIDS than of dying of either heart disease or cancer.

It is said that even if research on AIDS does not yield a cure, spin-offs from that research could lead to cures and treatments for other diseases. In line with this idea, Congressman Ted Weiss (D.-NY) requested the Office of Technology Assessment (OTA) to prepare a report titled, "How Has Federal Research on AIDS/HIV Contributed to Other Fields?" The reviewer in the British medical journal Lancet, struck by the contrast between this tiny report and OTA's customary "behemoth, exhaustive" efforts, noted that it was comprised of nothing more than opinions from an "unspecified organization of 'distinguished biomedical and social scientists,'" and that "For policy or polemics, this OTA production is a bust."

Nevertheless, Dr. Anthony Fauci, the director of the National Institutes of Allergies and Infectious Diseases (NIAID), a branch of the National Institutes of Health (NIH), and long an advocate of increased spending on AIDS, declared that "There's positive spin-offs already and certainly in the next decade or two you'll see more," adding that these included cancer. In fact, no life has ever been saved, no disease ever ameliorated, by AIDS spin-offs. As former NIH director Donald Fredrickson has pointed out, most AIDS research is far too narrowly targeted to lead to significant spin-offs. Indeed, most of the money spent by the PHS on AIDS (including for advertisements on late-night television like the one featuring a man who resolves not to go out on the town and "bring back AIDS to my family") does not involve clinical research at all.

This is not to say that no spin-offs are ever possible. After all, no one knew that the space program would end up introducing the world to velcro. But we did not embark on the space program because we wanted a new kind of fastener. If it is a cure for cancer we seek, we should spend money on cancer research, not on another disease entirely. As it happens, increasing spending on cancer at the expense of spending on AIDS might do more for both diseases; of the first three drugs approved for treatment of AIDS or its conditions, two—AZT and alpha interferon—were spin-offs of cancer research.

Among the deleterious effects of disproportionate spending on AIDS have been inevitable boondoggles, as great a problem in medicine as in national defense. In December 1988, NIAID announced two grants totaling $22.8 million to study non-drug-using heterosexuals in order, as the Associated Press put it, to "prevent a huge new epidemic." Speaking on condition of anonymity, one prominent federal epidemiologist said of the study, "I think it's complete bullshit." He added, "My sense was that a huge amount of money got dumped on NIAID and that by the time they got around to awarding the money a lot of good institutions had already been funded and all that was left was schlock."

Concentration on AIDS has in general prompted a de-emphasis of other medical diseases like Alzheimer's, a cruel, debilitating malady that will continue to exact an everhigher yearly toll unless medical intervention becomes possible. Nobody is more conscious of this than researchers themselves. It takes up to a decade to put a high-school graduate through medical school; thus, for now and for the immediate future, AIDS researchers are being drawn from other research areas, primarily cancer, and the rumblings from traditionally nonpolitical laboratories are growing louder and louder. Some are calling it "AIDS Resentment Complex, a play on "AIDS Related Complex." Dr. Vincent T. DeVita, Jr., just before stepping down from his position as director of the National Cancer Institute (NCI), said that AIDS "has been an extraordinary drain on the energy of the scientific establishment." In fact, AIDS research has now weakened cancer research to the point where NCI's ability to fund promising new proposals is lower than at any time in the past two decades.

Two top doctors left NCI in late 1988, partly out of frustration over this state of affairs. According to one of them, Dr. Robert Young, now president of the American Society of Clinical Oncology, "the superstructure of cancer research is being dismantled." Indeed, for non-AIDS work, NIH lost almost 1,100 employees between 1984 and 1989. At the same time, according to Science magazine, the number of NIH employees engaged in AIDS work increased by more than 400 to 580 workers or their full-time equivalents.

The most vocal opposition to spiraling federal AIDS expenditures has probably come from women concerned about breast cancer, which kills about 44,000 a year; every two years as many women die of breast cancer alone as the number of men and women

who have died of AIDS over the course of the entire epidemic. True, Congress is now considering bills that would appropriate funds for cancer screening in women, but the total to be allocated for both breast cancer and cervical cancer—the latter kills 6,000 women a year and is virtually always preventable if caught early enough—is only $50 million, as contrasted with the $3 to $4 billion which Congress wants to spend for AIDS treatment programs over the next six years and which will probably not save a single life, from AIDS or anything else.

The blunt fact is, then, that a great many people will die of other diseases because of the overemphasis on AIDS. We will never know their names and those names will never be sewn into a giant quilt. We will never know their exact numbers. But they will die nonetheless.

Is this right? Should a compassionate society allocate funds and research on the basis of media attention, on the basis of whoever makes the loudest noise? Or should it, rather, put its appropriations where they can do the most good for the greatest number of people?

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U.S. SENATE,
REPUBLICAN POLICY COMMITTEE,
*Washington, DC, September 8, 1990.*

DEAR COLLEAGUE: Last fall the Senate adopted an amendment of mine to the Labor-H.H.S.-Education appropriations bill that would have required the Secretary of Health and Human Services to report to Congress on the amount of money that the Federal government spends on research, prevention, and education for the 20 illnesses that are the leading causes of death in the United States. The conference committee took my amendment out but wrote the same requirement into its report, and the Assistant Secretary for Health has now completed his "Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S."

The report is dated July, 1990. I obtained a copy during the August recess and am now sending one to you so that the information in the report will be widely available when Congress makes its appropriations decisions for fiscal year 1991.

The report uses mortality data from 1987 and expenditure data from 1989 (actual) and 1990 (estimated). Things have changed since 1987 (e.g., in 1987 there were 13,468 deaths from HIV infection while in 1989 there were 22,237 deaths), but the overall message of the report would change little if newer data were substituted. (The enclosed charts, which were prepared by Policy Committee staff not H.H.S., do use later data.)

The report tells us that in 1987 for every 1,000 deaths from all causes,

358 were caused by heart disease,
225 were caused by cancer,
71 were caused by stroke,
37 were caused by pulmonary diseases,
33 were caused by pneumonia and influenza,
18 were caused by diabetes, and
6 were caused by HIV infection.

The report tells us that for every $1,000 that we expect to spend in 1990 on research, prevention, and education on these 20 illnesses,

$53 will go to heart disease,
$303 will to go cancer,
$16 will go to stroke,
$7 will go to pulmonary diseases,
$17 will go to pneumonia and influenza,
$65 will go to diabetes, and
$362 will go to HIV infection.

If we divide the report's 1990 numbers for expected spending on research, prevention, and education by the number of deaths in 1987 we see that we are spending,

$288 per death caused by heart disease,
$2,608 per death caused by cancer,
$450 per death caused by stroke,
$383 per death caused by pulmonary diseases,
$1,004 per death caused by pneumonia and influenza,
$6,895 per death caused by diabetes, and
$110,280 per death caused by HIV infection ($66,790 per 1989 death).

If we distributed Federal research, prevention, and education funds to each illness equally for each death caused, each of these 20 killers would receive about $2300 per death. Compare that hypothetical disbursement with the numbers above where average expenditures per death run from below $300 to above $110,000—and keep in mind that we spend far less than $300 per death for some of the other illnesses that are included in the report but not summarized in this letter. Of course, we make decisions about spending for medical research, prevention, and education for many reasons besides the number of persons that an illness kills. For example, the prospects for a cure, the likelihood that education will change behavior, and the possibility of ameliorating the disabling effects of an illness that strikes but doesn't kill are the kinds of additional considerations that we legitimately take into account. Still, one can't look at the numbers above without wondering if our spending priorities are consistent with good science and good government.

I am enclosing a copy of the H.H.S. report together with helpful charts prepared by the Policy Committee. I hope the report and the charts will spark a reassessment of our priorities in medical research, prevention, and education. The American people, Congress, the Executive Branch, and the health professions need to ask if our spending is reasonably matched with the actual risks we face, the suffering and expense of illness and death, and our expectations for medical progress.

Sincerely,

WILLIAM L. ARMSTRONG.

Enclosures:

1. Department of Health and Human Services, Public Health Service, "Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S." (July, 1990)
2. Republican Policy Committee, United States, "Charts on the Top 20 Killers" (September, 1990)

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[From the Public Health Service, July 1990]

REPORT TO CONGRESS ON EXPENDITURES FOR RESEARCH, PREVENTION, AND EDUCATION FOR THE 20 ILLNESSES THAT ARE THE LEADING CAUSES OF DEATH IN THE UNITED STATES

(By James O. Mason, M.D., Dr.P.H., Assistant Secretary for Health)

INTRODUCTION

In its deliberation on the Fiscal Year 1990 budget for the Department of Health and Human Resources, the Senate stated: "Within 120 days of the enactment of this Act, the Secretary shall submit to the Congress a report listing the 20 leading causes of death in the United States, the number of deaths caused by each, the age-specific and age-adjusted death rates for each, the death rate per 100,000 population and the percent of total deaths for each, and the amount of money and percent of total money that the Government of the United States spends annually on research, prevention, or education with respect to each leading cause of death. The report shall show actual expenditures for fiscal year 1989 (or fiscal year 1988 if final 1989 data are unavailable) and projected expenditures for fiscal year 1990. In determining what programs or activities constitute spending for research, prevention, or education, the Secretary shall use consistent criteria for each of the 20 illnesses and shall specify with reasonable particularity the programs or activities that meet such criteria." (Congressional Record, September 21, 1989, page S11632.)

The following report has been prepared by the Public Health Service of the Department of Health and Human Services in response to this request.

STATISTICS DATA

The mortality statistics are for the calendar year 1987 as stated in the "Monthly Vital Statistics Report" (Vol. 38, No. 5, Supplement, September 26, 1989), National Center for Health Statistics. The crude death rate is calculated by dividing the total deaths by the total population. The age-specific death rate was determined by dividing the deaths occurring in an age interval by the population in that age group. Age-adjusted death rates show what the level of mortality would be if there were no changes in the age composition of the population from year to year. The age-adjusted rates presented in this report were computed by applying the age-specific death rates for a given cause of death to the standard population distribution by age. The total population as enumerated in 1940 was selected as the standard.

CRITERIA

In determining the programs or activities which constitute spending for research, prevention, or eduction, the following criteria was applied for each of the 20 illnesses that are the leading causes of death.

Research—includes the biomedical and behavioral research supported by the National Institutes of Health (NIH) and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) as well as the research on medical treatement effectiveness, general health services, and health care technology funded by the Agency for Health Care Policy and Research (AHCPR).

Prevention—includes programs and activities aimed at disease prevention, control, and health promotion supported by the Centers for Disease Control (CDC), NIH, and ADAMHA. In addition the Food and Drug Administration (FDA) expenditures related to HIV/AIDS are included.

Education—includes community-based risk reduction efforts supported by CDC, NIH, and ADAMHA. Spending for HIV/AIDS is also included for the Office of Minority Health, Office of the Assistant Secretary for Health and the Health Resources and Services Administration's Education Training Centers.

| 20 illnesses that are leading causes of death, USA, 1987 (Based on 9th Revision International Classification of Diseases, 1975) | Number of deaths | Percent total deaths | Death rate per 100,000 population | | |
|---|---|---|---|---|---|
| | | | Age-specific death rate | Age-adjusted death rate | Crude death rate |
| All causes—not just sum of 20 leading illnesses | 2,123,323 | 100.0 | | 535.5 | 872.4 |
| Under 1 year | | | 1,018.5 | | |
| 1 to 4 years | | | 51.6 | | |
| 5 to 14 years | | | 25.6 | | |
| 15 to 24 years | | | 99.4 | | |
| 25 to 34 years | | | 133.2 | | |
| 35 to 44 years | | | 214.1 | | |
| 45 to 54 years | | | 498.0 | | |
| 55 to 64 years | | | 1,241.3 | | |
| 65 to 74 years | | | 2,751.3 | | |
| 75 to 84 years | | | 6,282.5 | | |
| 85 years and over | | | 15,320.8 | | |
| 1. Diseases of heart | 760,353 | 35.8 | | 169.6 | 312.4 |
| Under 1 year | | | 25.2 | | |
| 1 to 4 years | | | 2.2 | | |
| 5 to 14 years | | | 0.9 | | |
| 15 to 24 years | | | 2.8 | | |
| 25 to 34 years | | | 8.4 | | |
| 35 to 44 years | | | 35.6 | | |
| 45 to 54 years | | | 140.5 | | |
| 55 to 64 years | | | 408.8 | | |
| 65 to 74 years | | | 1,007.9 | | |
| 75 to 84 years | | | 2,560.0 | | |
| 85 years and over | | | 7,074.2 | | |
| 2. Malignant neoplasms, including neoplasms of lymphatic and hematopoietic tissues | 476,927 | 22.5 | | 132.9 | 195.9 |
| Under 1 year | | | 2.7 | | |
| 1 to 4 years | | | 3.8 | | |
| 5 to 14 years | | | 3.3 | | |
| 15 to 24 years | | | 5.1 | | |
| 25 to 34 years | | | 12.4 | | |
| 35 to 44 years | | | 43.5 | | |
| 45 to 54 years | | | 164.3 | | |
| 55 to 64 years | | | 447.0 | | |
| 65 to 74 years | | | 843.6 | | |
| 75 to 84 years | | | 1,298.4 | | |
| 85 years and over | | | 1,618.0 | | |
| 3. Cerebrovascular diseases | 149,835 | 7.1 | | 30.3 | 61.6 |
| Under 1 year | | | 3.4 | | |
| 1 to 4 years | | | .4 | | |
| 5 to 14 years | | | .2 | | |
| 15 to 24 years | | | .6 | | |
| 25 to 34 years | | | 2.2 | | |
| 35 to 44 years | | | 7.0 | | |
| 45 to 54 years | | | 20.1 | | |
| 55 to 64 years | | | 52.2 | | |
| 65 to 74 years | | | 157.2 | | |
| 75 to 84 years | | | 562.6 | | |
| 85 years and over | | | 1,733.1 | | |
| 4. Chronic obstructive pulmonary diseases and allied conditions | 78,380 | 3.7 | | 18.7 | 32.2 |
| Under 1 year | | | 1.4 | | |
| 1 to 4 years | | | .3 | | |
| 5 to 14 years | | | .3 | | |
| 15 to 24 years | | | .5 | | |
| 25 to 34 years | | | .6 | | |
| 35 to 44 years | | | 1.8 | | |
| 45 to 54 years | | | 9.2 | | |
| 55 to 64 years | | | 47.4 | | |
| 65 to 74 years | | | 145.5 | | |
| 75 to 84 years | | | 300.4 | | |
| 85 years and over | | | 376.9 | | |
| 5. Pneumonia and influenza | 69,225 | 3.3 | | 13.1 | 28.4 |
| Under 1 year | | | 17.9 | | |
| 1 to 4 years | | | 1.4 | | |
| 5 to 14 years | | | .3 | | |
| 15 to 24 years | | | .7 | | |
| 25 to 34 years | | | 1.8 | | |
| 35 to 44 years | | | 3.4 | | |
| 45 to 54 years | | | 7.0 | | |
| 55 to 64 years | | | 17.6 | | |
| 65 to 74 years | | | 56.7 | | |
| 75 to 84 years | | | 234.1 | | |
| 85 years and over | | | 1,002.4 | | |
| 6. Diabetes mellitus | 38,532 | 1.8 | | 9.8 | 15.8 |
| Under 1 year | | | 0 | | |
| 1 to 4 years | | | .1 | | |
| 5 to 14 years | | | .1 | | |
| 15 to 24 years | | | .3 | | |
| 25 to 34 years | | | 1.4 | | |
| 35 to 44 years | | | 3.5 | | |
| 45 to 54 years | | | 9.7 | | |
| 55 to 64 years | | | 26.9 | | |
| 65 to 74 years | | | 61.1 | | |
| 75 to 84 years | | | 123.3 | | |
| 85 years and over | | | 213.4 | | |
| 7. Chronic liver disease and cirrhosis | 26,201 | 1.2 | | 9.1 | 10.8 |
| Under 1 year | | | .4 | | |
| 1 to 4 years | | | 0 | | |
| 5 to 14 years | | | 0 | | |
| 15 to 24 years | | | .2 | | |
| 25 to 34 years | | | 2.6 | | |
| 35 to 44 years | | | 10.0 | | |
| 45 to 54 years | | | 19.8 | | |
| 55 to 64 years | | | 32.1 | | |
| 65 to 74 years | | | 35.1 | | |
| 75 to 84 years | | | 32.6 | | |
| 85 years and over | | | 20.9 | | |
| 8. Artherosclerosis | 22,474 | 1.1 | | 3.6 | 9.2 |
| Under 1 year | | | 0 | | |
| 1 to 4 years | | | | | |
| 5 to 14 years | | | | | |
| 15 to 24 years | | | 0 | | |
| 25 to 34 years | | | 0 | | |
| 35 to 44 years | | | .1 | | |
| 45 to 54 years | | | .7 | | |
| 55 to 64 years | | | 4.0 | | |

| 20 illnesses that are leading causes of death, USA, 1987 (Based on 9th Revision International Classification of Diseases, 1975) | Number of deaths | Percent total deaths | Death rate per 100,000 population | | |
|---|---|---|---|---|---|
| | | | Age-specific death rate | Age-adjusted death rate | Crude death rate |
| 65 to 74 years | | | 16.3 | | |
| 75 to 84 years | | | 73.6 | | |
| 85 years and over | | | 406.5 | | |
| 9. Nephritis, nephrotic syndrome, and nephrosis | 22,052 | 1.0 | | 4.8 | 9.1 |
| Under 1 year | | | 5.8 | | |
| 1 to 4 years | | | .1 | | |
| 5 to 14 years | | | .1 | | |
| 15 to 24 years | | | .2 | | |
| 25 to 34 years | | | .6 | | |
| 35 to 44 years | | | 1.2 | | |
| 45 to 54 years | | | 3.3 | | |
| 55 to 64 years | | | 9.2 | | |
| 65 to 74 years | | | 26.4 | | |
| 75 to 84 years | | | 78.9 | | |
| 85 years and over | | | 218.1 | | |
| 10. Septicemia | 19,916 | .9 | | 4.5 | 8.2 |
| Under 1 year | | | 6.7 | | |
| 1 to 4 years | | | .6 | | |
| 5 to 14 years | | | .1 | | |
| 15 to 24 years | | | .3 | | |
| 25 to 34 years | | | .7 | | |
| 35 to 44 years | | | 1.4 | | |
| 45 to 54 years | | | 3.2 | | |
| 55 to 64 years | | | 9.1 | | |
| 65 to 74 years | | | 24.2 | | |
| 75 to 84 years | | | 66.5 | | |
| 85 years and over | | | 188.8 | | |
| 11. Certain conditions originating in the perinatal period | 18,222 | .9 | | 7.5 | 7.5 |
| Under 1 year | | | 479.2 | | |
| 1 to 4 years | | | .8 | | |
| 5 to 14 years | | | 0 | | |
| 15 to 24 years | | | 0 | | |
| 25 to 34 years | | | 0 | | |
| 35 to 44 years | | | 0 | | |
| 45 to 54 years | | | | | |
| 55 to 64 years | | | 0 | | |
| 65 to 74 years | | | 0 | | |
| 75 to 84 years | | | 0 | | |
| 85 years and over | | | | | |
| 12. Human immunodeficiency virus infection | 13,468 | .6 | | 5.5 | 5.5 |
| Under 1 year | | | 2.3 | | |
| 1 to 4 years | | | .7 | | |
| 5 to 14 years | | | .1 | | |
| 15 to 24 years | | | 1.3 | | |
| 25 to 34 years | | | 11.6 | | |
| 35 to 44 years | | | 14.0 | | |
| 45 to 54 years | | | 7.9 | | |
| 55 to 64 years | | | 3.5 | | |
| 65 to 74 years | | | 1.3 | | |
| 75 to 84 years | | | .8 | | |
| 85 years and over | | | .5 | | |
| 13. Congenital anomalies | 12,333 | .6 | | 4.9 | 5.1 |
| Under 1 year | | | 209.1 | | |
| 1 to 4 years | | | 6.4 | | |
| 5 to 14 years | | | 1.3 | | |
| 15 to 24 years | | | 1.3 | | |
| 25 to 34 years | | | 1.0 | | |
| 35 to 44 years | | | 1.1 | | |
| 45 to 54 years | | | 1.5 | | |
| 55 to 64 years | | | 1.9 | | |
| 65 to 74 years | | | 2.5 | | |
| 75 to 84 years | | | 4.1 | | |
| 85 years and over | | | 5.4 | | |
| 14. Hypertension with or without renal disease | 8,139 | .4 | | 1.8 | 3.3 |
| Under 1 year | | | .1 | | |
| 1 to 4 years | | | 0 | | |
| 5 to 14 years | | | 0 | | |
| 15 to 24 years | | | 0 | | |
| 25 to 34 years | | | .1 | | |
| 35 to 44 years | | | .5 | | |
| 45 to 54 years | | | 1. | | |
| 55 to 64 years | | | 3.9 | | |
| 65 to 74 years | | | 10.9 | | |
| 75 to 84 years | | | 27.6 | | |
| 85 years and over | | | 77.4 | | |
| 15. Benign neoplasms, carcinoma in situ, and neoplasms of uncertain behavior and of unspecified nature | 6,570 | .3 | | 1.7 | 2.7 |
| Under 1 year | | | 1.6 | | |
| 1 to 4 years | | | .4 | | |
| 5 to 14 years | | | .2 | | |
| 15 to 24 years | | | .3 | | |
| 25 to 34 years | | | .4 | | |
| 35 to 44 years | | | .7 | | |
| 45 to 54 years | | | 1.6 | | |
| 55 to 64 years | | | 3.8 | | |
| 65 to 74 years | | | 9.3 | | |
| 75 to 84 years | | | 20.7 | | |
| 85 years and over | | | 36.8 | | |
| 16. Ulcer of stomach and duodenum | 6,358 | .3 | | 1.4 | 2.6 |
| Under 1 year | | | .3 | | |
| 1 to 4 years | | | 0 | | |
| 5 to 14 years | | | 0 | | |
| 15 to 24 years | | | 0 | | |
| 25 to 34 years | | | 0.1 | | |
| 35 to 44 years | | | 0.4 | | |
| 45 to 54 years | | | 1.1 | | |
| 55 to 64 years | | | 2.9 | | |
| 65 to 74 years | | | 8.0 | | |
| 75 to 84 years | | | 22.7 | | |
| 85 years and over | | | 59.4 | | |
| 17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia | 5,547 | .3 | | 1.1 | 2.3 |
| Under 1 year | | | 2.5 | | |
| 1 to 4 years | | | .2 | | |
| 5 to 14 years | | | | | |
| 15 to 24 years | | | .1 | | |
| 25 to 34 years | | | .1 | | |

| 20 illnesses that are leading causes of death, USA, 1987 (Based on 9th Revision International Classification of Diseases, 1975) | Number of deaths | Percent total deaths | Death rate per 100,000 population | | |
|---|---|---|---|---|---|
| | | | Age-specific death rate | Age-adjusted death rate | Crude death rate |
| 35 to 44 years | | | .2 | | |
| 45 to 54 years | | | .6 | | |
| 55 to 64 years | | | 1.7 | | |
| 65 to 74 years | | | 5.3 | | |
| 75 to 84 years | | | 19.7 | | |
| 85 years and over | | | 68.4 | | |
| 18. Anemias | 3,813 | .2 | | .9 | 1.6 |
| Under 1 year | | | .5 | | |
| 1 to 4 years | | | .3 | | |
| 5 to 14 years | | | .2 | | |
| 15 to 24 years | | | .3 | | |
| 25 to 34 years | | | .5 | | |
| 35 to 44 years | | | .4 | | |
| 45 to 54 years | | | .6 | | |
| 55 to 64 years | | | 1.2 | | |
| 65 to 74 years | | | 3.4 | | |
| 75 to 84 years | | | 11.6 | | |
| 85 years and over | | | 40.5 | | |
| 19. Cholelithiasis and other disorders of gallbladder | 3,032 | .1 | | .6 | 1.2 |
| Under 1 year | | | 0 | | |
| 1 to 4 years | | | 0 | | |
| 5 to 14 years | | | 0 | | |
| 15 to 24 years | | | 0 | | |
| 25 to 34 years | | | 0 | | |
| 35 to 44 years | | | .1 | | |
| 45 to 54 years | | | .3 | | |
| 55 to 64 years | | | 1.2 | | |
| 65 to 74 years | | | 3.6 | | |
| 75 to 84 years | | | 11.3 | | |
| 85 years and over | | | 33.3 | | |
| 20. Nutritional deficiencies | 2,889 | .1 | | .5 | 1.2 |
| Under 1 year | | | .7 | | |
| 1 to 4 years | | | .1 | | |
| 5 to 14 years | | | 0 | | |
| 15 to 24 years | | | 0 | | |
| 25 to 34 years | | | 0 | | |
| 35 to 44 years | | | .1 | | |
| 45 to 54 years | | | .2 | | |
| 55 to 64 years | | | .5 | | |
| 65 to 74 years | | | 2.0 | | |
| 75 to 84 years | | | 9.6 | | |
| 85 years and over | | | 49.1 | | |

## DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLIC HEALTH SERVICE RESEARCH, PREVENTION AND EDUCATION EXPENDITURES

[In thousands of dollars]

| 20 illnesses that are the leading causes of death, USA, 1987 (Based on the 9th Revision International Classification of Diseases, 1975) | CDC | NIH | ADAMHA | AHCPR | OASH | Other PHS | Total |
|---|---|---|---|---|---|---|---|
| **1989 ACTUAL** | | | | | | | |
| 1. Diseases of heart | 6,396 | 204,565 | 3,449 | 2,542 | | | 216,952 |
| 2. Malignant neoplasms, including neoplasms of lymphatic and hematopoiatic tissues | 16,196 | 1,186,362 | 1,102 | 1,464 | | | 1,205,124 |
| 3. Cerebrovascular diseases (stroke) | 245 | 62,778 | 1,352 | 291 | | | 64,666 |
| 4. Chronic obstructive pulmonary diseases and allied conditions | 856 | 27,066 | 1,185 | | | | 29,107 |
| 5. Pneumonia and influenza | 3,056 | 63,424 | 145 | | | | 66,625 |
| 6. Diabetes mellitus | 10,625 | 244,724 | 613 | | | 3,900 | 259,862 |
| 7. Chronic liver disease and cirrhosis | 1,982 | 8,235 | 5,553 | | | | 15,770 |
| 8. Atherosclerosis | 45 | 117,856 | | 50 | | | 117,951 |
| 9. Nephritis, nephrotic syndrome, and nephrosis | | 99,842 | 946 | | | | 100,788 |
| 10. Septicemia (blood poisoning) | 2,723 | 144 | | | | | 2,867 |
| 11. Certain conditions originating in the perinatal period | 2,596 | 74,215 | 49,092 | | | | 125,903 |
| 12. Human immunodeficiency virus infection | 377,592 | 602,294 | 173,336 | 6,831 | 3,416 | 89,215 | 1,252,684 |
| 13. Congential anomalies | 2,996 | 92,043 | 4,175 | | | | 99,214 |
| 14. Hypertension with or without renal disease | 14,078 | 125,382 | 1,047 | | | | 140,507 |
| 15. Benign neoplasms, caroinoma in situ and neoplasms of uncertain behavior and of unspecified nature | 653 | 1,914 | 177 | 87 | | | 2,831 |
| 16. Ulcer of stomach and duodenum | | 2,847 | 61 | | | | 2,908 |
| 17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia | | | 238 | | | | 238 |
| 18. Anemias | 1,124 | 20,453 | 261 | | | | 21,838 |
| 19. Cholelithiasis and other disorders of gallbladder | | 4,271 | 197 | 116 | | | 4,584 |
| 20. Nutritional deficiencies | 2,733 | 17,995 | 3,400 | | | | 24,128 |
| Total | 443,896 | 2,956,410 | 246,329 | 11,381 | 3,416 | 93,115 | 3,754,547 |
| **1990 ESTIMATE** | | | | | | | |
| 1. Diseases of heart | 6,399 | 204,186 | 3,712 | 4,593 | | | 218,890 |
| 2. Malignant neoplasms, including neoplasms of lymphatic and hematopoiatic tissues | 13,640 | 1,225,904 | 1,269 | 2,835 | | | 1,243,648 |
| 3. Cerebrovascular diseases (stroke) | 265 | 65,386 | 1,544 | 279 | | | 67,474 |
| 4. Chronic obstructive pulmonary diseases and allied conditions | 856 | 27,864 | 1,338 | | | | 30,058 |
| 5. Pneumonia and influenza | 3,147 | 64,987 | 158 | 1,174 | | | 69,466 |
| 6. Diabetes mellitus | 9,467 | 250,192 | 635 | | | 5,400 | 265,694 |
| 7. Chronic liver disease and cirrhosis | 2,129 | 8,458 | 6,908 | | | | 17,495 |
| 8. Atherosclerosis | 45 | 118,157 | | 997 | | | 119,199 |
| 9. Nephritis, nephrotic syndrome, and nephrosis | | 102,745 | 1,053 | | | | 103,798 |
| 10. Septicemia (blood poisoning) | 2,865 | 152 | | | | | 3,017 |
| 11. Certain conditions originating in the perinatal period | 2,633 | 76,813 | 92,824 | | | | 172,270 |
| 12. Human immunodeficiency virus infection | 442,826 | 743,532 | 214,647 | 8,474 | 4,010 | 71,761 | 1,485,250 |
| 13. Congential anomalies | 3,263 | 94,717 | 5,043 | | | | 103,023 |
| 14. Hypertension with or without renal disease | 14,078 | 125,966 | 1,118 | | | | 141,162 |
| 15. Benign neoplasms, caroinoma in situ and neoplasms of uncertain behavior and of unspecified nature | 694 | 1,766 | 202 | 300 | | | 2,962 |
| 16. Ulcer of stomach and duodenum | | 2,932 | 70 | | | | 3,002 |
| 17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia | | | 272 | | | | 272 |
| 18. Anemias | 1,134 | 20,603 | 300 | | | | 22,037 |
| 19. Cholelithiasis and other disorders of gallbladder | | 4,370 | 225 | 1,489 | | | 6,084 |
| 20. Nutritional deficiencies | 2,733 | 18,417 | 3,818 | | | | 24,968 |
| Total | 506,174 | 3,157,147 | 335,136 | 20,141 | 4,010 | 77,161 | 4,099,769 |

Note: the "other PHS' column includes: HRSA: 1989—$14,640,000; 1990—$14,549,000. FDA: 1989—$73,775,000; 1990—$56,220,000. IHS: 1989—$4,700,000; 1990—$6,392,000.

CHARTS ON THE TOP 20 KILLERS

The attached charts depict the number of deaths caused by the "top 20 killers" and show how the federal government allocates its research, education and prevention dollars. The spending figures shown in the charts are for fiscal year 1990, and are taken from an HHS report to Congress issued this past July. The mortality figures, however, are *not* taken from the recent HHS report to Congress. That report uses *1987* data on deaths from major killers; the charts, except where otherwise noted, use *1989* mortality figures.

[Charts not reproducible in the RECORD.]

Mr. HELMS. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). Who seeks recognition?

The Senator from New Jersey [Mr. LAUTENBERG].

Mr. LAUTENBERG. Mr. President, I want to respond to the comments and the charts shown by our colleague from North Carolina who makes the point that we are spending too much on AIDS, that AIDS is getting more than its fair share, that AIDS is a disease related to a particular segment of the community, that it is associated with a particular behavior type.

It is important to say that if you want to save someone's life from AIDS you do not have to know how that person contracted the disease: Whether it is a child getting a transfusion in the hospital or someone who accidentally contracts it from a dentist or some other way.

We spend billions trying to solve the drug problem because we know we cannot wish the problem away. It's the same thing with AIDS. We need to spend money to ease the burden on health care systems and help families cope with the devastating disease until we do find a cure. AIDS affects all of us. It affects our neighbors, in some cases, unfortunately, our kids, in some cases our fellow workers. And it will get worse.

So, to suggest that AIDS is getting too much, in my judgment, misses the point entirely.

The Senator asks that we take $120 million from AIDS programs to provide more funding for the cure or the prevention of sudden infant death syndrome, Alzheimer's, diabetes. I agree with the Senator that we need more funding for those programs. And we ought to find a way to provide it. But the place to find the money is not the funds available to deal with a disease over which we have little control.

Those victimized by the other diseases need our help. There is not a lot of hope yet for Alzheimer's. We may be encouraged by some things on the drawing board. But there is no cure yet.

But we're searching for them. I come from a State that is the home of a pharmaceutical industry in which I know there are some gains being made in the treatment of diabetes. We know that money is being provided for diseases that harm the elderly. As a matter of fact, this bill provides for a 51-percent increase for the National Institute on Aging from last year to this year. Alzheimer's funding increases from $147 million in fiscal year 1990 to $305 million in this bill.

I also call to the Senator's attention the fact that AIDS is not just an urban problem, and that this is not just a condition related to particular communities. We have information that tells us that the number of AIDS cases is growing in alarming proportions in rural communities, growing at a rate, in some cases, far exceeding the cities.

Between 1988 and 1989, the incidence of AIDS increased over 200 percent in some of our less populated cities and States. It increased dramatically in cities like Indianapolis and Gary, IN. It increased 100 percent in Greenville-Spartanburg, SC, and Johnson City-Kingsport, TN, Springfield, MO, and in Biloxi, MS. We are not talking about only major urban areas.

We are talking about large numbers of people who are affected by AIDS. AIDS is the leading cause of death for women ages 20 to 40 in New York City. AIDS disproportionately affects minority women.

Heterosexual activity accounts for a steadily increasing proportion of all AIDS cases: In 1983, 0.9 percent and in 1988, 4 percent of all AIDS cases were in the heterosexual population. And the list goes on.

I think, Mr. President, that we ought to take a serious look at our health care costs and find out just what it is that costs this country so much money.

One of the causes is the use of tobacco. Mr. President, I point out for the record that approximately $130 billion a year is spent on the results of cigarette smoking. For instance, $65 billion in economic costs; $22 billion in health care costs; $43 billion a year on lost productivity; $4.2 billion in Medicaid and Medicare costs. And that figure goes on relentlessly.

If we are serious about saving money in health care costs and reducing the burden on the budget, then perhaps we ought to spend some money on discouraging people from smoking, and say, "Listen; if you really want to help your health, if you really want to do something for yourself and your family, then stop smoking." Save us all a lot of agony, a lot of pain, a lot of anguish, and save us a lot of money to boot.

I close with one comment. There is not a person here who is not concerned about infant mortality and who does not have the desire to reduce it.

One way to improve infant health and reduce mortality, I read in the papers, read in the journals, is to make sure that pregnant women do not smoke during their pregnancies. The babies that are born to nonsmoking mothers do a lot better in life shortly after their birth and continuing on for sometime if mom never smokes.

So I hope we will be able to enlist the aid of the Senator from North Carolina when it comes to really dealing with these health issues, recognize that AIDS is a health problem that should concern all American citizens. AIDS is an American public health crisis that demands action.

Mr. President, I hope that we will be moving shortly to table this amendment.

Mr. KENNEDY. Mr. President, I join with those that hope that this amendment will be defeated.

Mr. President, this is a mean-spirited amendment. Let us put the facts on the table. Basically, what we are debating in this amendment, is cutting back on research and care for those with HIV disease who might benefit, and balancing that against the needs of children and the elderly in our society.

Rather than coming out on the floor of the U.S. Senate and saying, "I am additionally concerned about children and about those with Alzheimers disease and am going into battle to see if we cannot get additional resources," this amendment put those that are afflicted with various diseases striving and fighting against each other. And then throw the conflict right out on the Senate floor to see how it comes out, so that some will be able to say, "Look, you really care more about one group than about the other."

And how ridiculous is it, Mr. President, on the one hand to be talking about the importance of children's health programs while moving money away from AIDS research or AIDS care. Children benefit a great deal from this research and care. Anyone that has traveled this country and visited the various pediatric AIDS centers at major urban hospitals has seen the tragedy that is affecting hundreds of thousands of infants in this Nation born addicted to drugs and infected with HIV. And make no mistake about it, the research done in HIV benefits not only these children, but many individuals affected by other chronic debilitating diseases.

We saw only a short time ago where scores of Members of the U.S. Senate went to a big howdy-do downtown because it was for pediatrics AIDS research. Everyone was prepared to go out there. Nonetheless, we still have an amendment here to cut back on the research that may very well benefit infants, expectant mothers, and hemophiliacs, not to mention countless others who are suffering with this dreaded disease.

The fastest rate of increase for causes of death among children, is attributable to combinations of HIV and substance abuse. And the fastest increase of mortality due to any disease in the past 2 years has been AIDS.

So, Mr. President, when we have a disastrous force that comes in, whether it is a hurricane, or in this case a disease, we respond. And we commend those that have recognized the importance of this challenge to our society and the challenge to the world.

The United States, Mr. President, is doing the research, the principal research with far-reaching implications around the world. The AIDS research funded under this bill will hopefully benefit the 10 million people around the world who have been diagnosed HIV-positive.

So, Mr. President, I hope that the sound scientific basis and justification for this effort, which has been amply demonstrated and justified by the peer review process time in and time out and which can mean extraordinary hope and opportunity for millions of our fellow citizens will not be denied.

Finally, Mr. President, the care program that was adopted overwhelmingly by this body just a few months ago, partially financed in this appropriation, provides some degree of care, outpatient care, for those in need. Once again, when you see the importance of a comprehensive community-based care system, not only in terms of the implications that it has on the quality of life of sick individuals, and the additional kinds of care and attention that can be given to those with HIV disease, but also terms of saving resources, the critical importance of the Ryan White Care Act is readily apparent. In many instances the cost of a hospital room may be $800 or $900 a day for the treatment of those with HIV disease. It is a fraction of that amount to provide home care. We have a down payment on the creation of appropriate care systems in this program, and through this amendment, such care will be cut as well.

So, Mr. President, I hope that this mean-spirited amendment will be rejected for what it is—the pitting of needy groups, and those who are vulnerable in our society against each other. Whether it is Alzheimer's or children afflicted by a variety of different diseases—and I yield to no one in my understanding of that, having had a child that was afflicted with cancer, or those with HIV disease—we must not place those in need in this type of competition. I believe that the AIDS investment that is included in this particular legislation in the areas of AIDS research, prevention and care, is a wise investment for our fellow citizens here in this country and around the world.

I hope the amendment will be defeated.

Mr. President, I ask unanimous consent that a letter from the Assistant Secretary for Health be printed in the RECORD along with a speech delivered by Secretary Sullivan and other relevant materials.

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
*Washington, DC, October 10, 1990.*

Hon. EDWARD M. KENNEDY,
*Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: This is in response to your letter dated September 26 in which you request a public health context for evaluation of the mortality data provided to the Senate in the Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S.

I would like to state that my intent in the report which was requested by Congress was to provide statistical information that established one measure of the health of the Nation. The Administration, the Department of Health and Human Services (HHS), and the Public Health Service within HHS, have provided the best summary of our priorities for health care research and prevention and for allocation of resources in these areas in the Fiscal Year (FY) 1991 budget proposal that was submitted to Congress by the President. In this proposal, as well as in the long-range plan outlined in our recently published document Healthy People 2000—National Health Promotion and Disease Prevention Objectives, we have tried to balance the many research and prevention needs of the Nation and to place emphasis or high priority on those areas with the greatest need and/or for which we perceive the opportunity to have the greatest effect.

Let me explain briefly why we have placed a relatively high priority on research and prevention for AIDS and human immunodeficiency virus (HIV) infection. AIDS is a new disease to the United States and the world occurring during the last 15 years or so. It is an infectious disease that continues to spread throughout the Nation. We have the opportunity to make rapid advances in our understanding of the virus and its interaction with the human host, in the means of transmission and the natural history of infection, in development of therapies not only for HIV infection but for the myriad of complicating infections, and in the development of a vaccine. At the same time, more knowledge has been acquired about how HIV is transmitted, and how it can be prevented than is available for most of the other leading causes of deaths in the United States today. Through this accumulated knowledge, we face unprecedented opportunities in the 1990's for implementing prevention efforts to slow or even stop the further spread of this infection.

As you know, the numbers of newly diagnosed cases and deaths continue to increase each year. More than 61 percent of reported AIDS patients are known to have died. Mortality has increased from 131 deaths in 1981, the year the disease was first recognized, to 6,540 deaths in 1985, to 15,026 deaths in 1987, and 22,863 in 1989 (the numbers vary slightly from those cited in the report to Congress due to late reports of death received by the Centers for Disease Control). This is an increase of 175 fold in less than a decade, and 52 percent in the last two years. Our projections for the number of deaths from AIDS in 1993 range from 53,000 to 76,000, a further increase of 232 percent over four years if the lower figure is used. In contrast, mortality numbers and rates for most other diseases are expected to remain relatively constant. This disease, which was unknown in 1980, has climbed to the twelfth spot within seven years as a disease causing death in the United States. It likely will be number eight or nine on the list by the time the cumulative figures for 1989 are available.

The age-specific death rate is another useful comparison. In the report to Congress comparing data for 1987, AIDS is the second leading cause of mortality from disease for young adults aged 25 to 34, and it is the third leading cause for those aged 35 to 44. For both young adult men and women, the significance of AIDS and HIV infection as a cause of death is continuing to increase, as illustrated by the enclosed graphs. For selected populations, such as black women aged 15 to 44 in New Jersey and New York, AIDS had become the leading cause of death as of 1987, and the rates continue to increase. For 1988, AIDS and related conditions accounted for 11 percent of all deaths in black women 25 to 34 years of age, and for 3 percent of deaths in white women of the same age. These data are discussed in greater detail in the enclosed report published recently in the Journal of the American Medical Association, "Impact of the Human Immunodeficiency Virus Epidemic on Mortality in Women of Reproductive Age, United States," by Susan Chu and her colleagues.

I have already mentioned the projected increase in mortality from AIDS in the years ahead. Similar projections for the number of new cases of AIDS suggest that during the next three years we can anticipate a minimum of 56,000 to 61,000 new cases diagnosed annually; the high-range projections for 1993 show 98,000 new cases being diagnosed. Compared with 1990, during which we estimate we have 101,000 to 122,000 persons living with AIDS in the United States, by 1993 we anticipate the number will range from 151,000 to 225,000. Actual case reports likely will be lower than these estimates since reporting of both cases and deaths are estimated to be no more than 85 percent complete. The trends of the epidemic are not static, however. Increasingly, AIDs is a disease that is affecting women and children, our racial and ethnic minority populations, heterosexuals, and people living in smaller cities and rural areas.

However, evaluation of the severity of AIDS for the Nation should not stop simply with looking at the number of deaths in any given year. Years of potential life lost before age 65 (YPLL–65) is another measure that is used to compare the impact that a disease has on a population. For 1988, HIV infection and AIDS is sixth on the list, behind unintentional injuries, malignant neoplasms, diseases of the heart, suicide/homicide, and congenital anomalies; it is ahead of prematurity and sudden infant death syndrome, cerebrovascular disease, chronic liver disease and cirrhosis, pneumonia/influenza, diabetes, and chronic obstructive pulmonary disease. Most striking, however, is that while the YPLL–65 for most of the diseases is stable or declining slightly, that for AIDS increased by 44.8 percent from 1986 to 1987, and again by 30.1 percent from 1987 to 1988.

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It is important to recognize, also, that HIV infection and AIDS have an impact far beyond the sole diagnoses. We are in the midst of an increasing epidemic of sexually transmitted diseases (STDs), particularly in our young men and women, that exacerbates transmission of HIV. Tuberculosis (TB), which had been steadily declining in the United States for several decades, has begun to increase again in many areas since the mid-1980's. HIV infection is one of the important risk factors for TB. TB cannot be ignored since it is transmissible to others and both curable and preventable. Rates of septicemia (systemic disease caused by pathogenic microorganisms or their toxias in the blood) in hospitalized patients have increased sharply during the mid-1980's; among patients 15 to 44 years of age, rates increased by 91 percent, which may reflect, at least in part, the impact of the AIDS epidemic.

The incidence of HIV infection in the United States also continues to increase. We estimate that at a minimum we have 40,000 newly infected persons annually; the actual number probably is several times higher. Estimates of infection in women of childbearing age are more accurate, and show that approximately 6,000 HIV-infected women annually are giving birth to babies; approximately 2,000 of these infants will themselves be infected. Studies of the frequency of HIV infection among hospitalized patients who did not have a diagnosis likely to be associated with HIV infection are being conducted in 26 sentinel hospitals in 21 cities across the country. For blood specimens collected from January 1988 to June 1989, the overall seroprevalence rate was 1.3 percent; the rate in individual hospitals ranged from 0.1 percent to 7.8 percent of specimens tested. For hospitals with the highest rates, the ratio of males to females was 2.9:1, in contrast to the high proportion of AIDS cases in men in the United States. In this study, the frequency of infection in racial and ethnic minority populations also was disproportionate. At two hospitals in communities with the highest prevalence of AIDS, 1.1 to 3.8 percent of adolescents 15 to 19 years of age and 18 to 22 percent of men 25 to 44 years of age were seropositive for HIV.

Finally, let me reiterate that we do indeed have many important health problems in this Nation that we need to attack with research and prevention monies. We must not be shortsighted, however, and look at only one side of the problem. HIV infection and its direct association with intravenous drug abuse are having a major impact on our efforts to decrease infant and early childhood morbidity and mortality. HIV infection, again often in association with drugs, is having an adverse impact on our ability to control our STD and tuberculosis problems; prevention in one arena often has an important impact in the other areas. Since it destroys the immune system, HIV infection and AIDS is clinically complicated by a myriad of other infectious diseases and a number of cancers. Progress made in diagnosing and treating these problems in people with AIDS can be translated into better care for people with other medical conditions. Our increase in knowledge about the basic functioning of the human immune system obtained through research on AIDS is having important benefits in other areas of research on immune problems and therapy. This work, for example, will increase our understanding of the interaction of the immune system with other types of cancers, and perhaps lead to better ways to suppress cancer growth in patients.

In summary, we believe the amounts requested for research and prevention of AIDS in the President's FY 1991 budget request are necessary and defensible.

Sincerely yours,

JAMES O. MASON, M.D., Dr. P.H.,
*Assistant Secretary for Health.*

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[From JAMA, July 11, 1990]

## IMPACT OF THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC ON MORTALITY IN WOMEN OF REPRODUCTIVE AGE, UNITED STATES

(By Susan Y. Chu, PhD; James W. Buehler, MD; Ruth L. Berkelman, MD)

To assess the effect of the human immunodeficiency virus (HIV) on mortality in U.S. women 15 to 44 years of age and to identify associated causes of death, we examined final (1980 through 1987) and provisional (1988) national mortality statistics. Between 1985 and 1988, the death rate for HIV/acquired immunodeficiency syndrome (AIDS) quadrupled (0.6 per 100,000 to 2.5 per 100,000), and by 1987, HIV/AIDS had become one of the 10 leading causes of death. In 1988, the death rate for black women (10.3 per 100,000) was nine times the rate for white women (1.2 per 100,000). The majority of deaths in both black and white women occurred in women 25 to 34 years of age, for whom HIV-related deaths accounted for 11 percent and 3 percent of all deaths in 1988, respectively. Among 1157 death certificates that included any mention of HIV/AIDS in 1987, other leading diagnoses included drug abuse (27 percent), Pneumocystis carinii pneumonia (20 percent), other pneumonias (14 percent), septicemia (10 percent), other infections not in the AIDS surveillance definition (7 percent), nephritis (6 percent), liver diseases (4 percent), and anemias (4 percent) if current mortality trends continue, HIV/AIDS can be expected to become one of the five leading causes of death by 1991 in women of reproductive age. Because women infected with HIV are the major source of infection for infants, these trends in AIDS mortality in women forecast the impact of HIV on mortality in children as well—(JAMA. 1990:264-225-229)

Although the epidemic of human immunodeficiency virus (HIV) infection has predcminantly affected young men, HIV infection is rapidly becoming a major health problem in young women. Human immunodeficiency virus/acquired immunodeficiency syndrome (AIDS) is among the 10 leading causes of death in women of reproductive age, and the death rate for HIV/AIDS continues to rise. The effect of HIV infection on the mortality of women and their children needs to be recognized and addressed by health professionals and policy makers.

In this article, we extend previous analyses of HIV-related mortality in young men to measure the impact of the HIV epidemic on mortality in women of reproductive age.[1] Using national mortality records, we addressed two questions: (1) To what extent are HIV-related deaths contributing to the mortality of women of reproductive age in the United States? (2) What causes of death are associated with HIV-related deaths in women?

### MATERIALS AND METHODS

We used final mortality data on public-use computer tapes prepared by the National Center for Health Statistics of the Centers for Disease Control, for the period 1980 through 1987 and provisional mortality statistics published by the National Center for Health Statistics for 1988.[2] To calculate annual death rates (deaths per 100,000 population per year), we used midyear (July 1) age-, gender-, and race-specific population estimates for 1980 through 1988 from public-use computer tapes prepared from Bureau of the Census data.[3] Death rates were age adjusted by the direct method,[4] with the 1980 U.S. female population used as the standard. For multiple cause-of-death analyses and cause-of-death rankings, we used final National Center for Health Statistics mortality data for 1987, the most recent year for which such data were available. We limited our analyses to women aged 15 to 44 years who were residents of the United States (excluding territories) at the time of death.

Causes of death were grouped by means of the *International Classification of Diseases, Ninth Revision (ICD-9).*[5] For 1980 to 1986, we classified deaths attributable to HIV infection or AIDS as deaths with an underlying cause of "deficiency of cell-mediated immunity" (*ICD-9* 297.1, the code implemented in 1983 for HIV/AIDS [6]), *Pneumocystis carinii* pneumonia (*ICD-9* 136.3), or Kaposi's sarcoma (*ICD-9* 173.0 through 173.9). Although these categories were not completely specific for HIV conditions, it is likely that HIV infection was involved in these deaths, especially among women 15 to 44 years of age. For 1987, deaths due to HIV infection were classified to category numbers 042 through 044, codes introduced in 1987 for classifying and coding HIV infection.[7] A separate code for laboratory evidence of HIV (category No. 795.8) was also introduced in 1987. This code is used when a positive test for HIV is mentioned but it is not used to classify HIV infection as an underlying cause of death. Because of the change in classification of deaths due to HIV infection, cause-of-death data for 1987 and 1988 are not strictly comparable with data from 1980 to 1986.[8]

We grouped causes of death with the use of categories similar to those used in a previous analysis of death in young men,[2] with additional categories for causes specific to women (eg, cervical cancer) (a listing of codes is available on request from one of us [S.Y.C.]). For cause-of-death rankings, we used categories that conform with National Center for Health Statistics mortality tabulations.[3]

To identify causes of death that may be associated with HIV-related deaths, we performed two analyses. First, using 1987 multiple-cause mortality data, we identified causes of death that frequently were listed on death certificates with any mention of HIV/AIDS (category Nos. 042 through 044). Second, we compared trends in various causes of death in states having a high AIDS incidence with trends in states having a low AIDS incidence. States were grouped on the basis of reported AIDS cases in women 15 to 44 years per 100,000 population by using data from national AIDS surveillance and taking the average of annual rates for the three most recent years (1986 through 1988). The highest group (New Jersey, New York, the District of Columbia, Florida, and Connecticut) had an average annual rate of 11.8 cases per 100,000 women. Successive groups had average annual rates of 1.5 cases per 100,000 (24 states) and 0.4 cases per 100,000 (22 states). Identifying causes of death that increased in states with a high AIDS incidence but not in those with a low AIDS incidence discloses causes of death that have increased in association

with the HIV epidemic; some or all of these increases could be related to HIV infection.

RESULTS

*Overall trends*

Deaths attributable to HIV/AIDS increased from 18 (age-adjusted rate, 0.03 per 100,000 population) in 1980 to 1430 (age-adjusted rate, 2.24 per 100,000 population) in 1988 for women 15 to 44 years of age in the United States (Table 1). Death rates for HIV/AIDS quadrupled between 1985 and 1988; in 1988, deaths attributable to HIV/AIDS represented 3% of all deaths in women 15 to 44 years of age.

*Race-specific rates*

For both black and white women 15 to 44 years of age, death rates for HIV/AIDS have increased steadily since 1985. For black women, the age-adjusted death rate increased from 4.4 per 100,000 in 1986 to 10.3 per 100,000 in 1988. For white women, the age-adjusted death rate for HIV/AIDS increased from 0.6 per 100,000 in 1985 to 1.2 per 100,000 in 1988. The 1988 death rate for HIV/AIDS in black women 15 to 44 years of age was nine times the rate in white women of the same age. The majority of deaths in both black and white women occurred in women 25 to 34 years of age, for whom HIV-related deaths accounted for 10.6% and 2.6% of all deaths in 1988, respectively.

*Region- and state-specific rates*

Region- and state-specific rates were calculated for 1987, the most recent year such data were available. Death rates for HIV/AIDS in women 15 to 44 years of age varied substantially by region of the United States and by state. In the Northeast, the age-adjusted death rate for HIV/AIDS was 5.3 per 100,000 population, 26 times the rate in the Midwest (0.2 per 100,000). The South and West had intermediate rates of 1.1 and 0.5 per 100,000 population, respectively. Among the 50 states and the District of Columbia, New Jersey and New York had the highest death rates for HIV/AIDS, with age-adjusted rates of 9.4 and 9.3 per 100,000 population, respectively. For both New Jersey and New York, in 1987, HIV/AIDS was the third leading cause of death in women 15 to 44 years of age, following malignant neoplasms and unintentional injuries as causes of death. The next highest rates were in the District of Columbia (4.3 per 100,000), Florida (4.2 per 100,000), and Connecticut (2.2 per 100,000). Seven states reported no deaths attributable to HIV among women 15 to 44 years of age (South Dakota, North Dakota, Montana, Oklahoma, Idaho, Nevada, and Vermont).

The higher death rate for black women in the United States overall was consistent across states. In New Jersey and New York, in 1987, age-adjusted death rates for HIV/AIDS among black women 15 to 44 years of age were 40.7 and 29.5 per 100,000 population, respectively; among white women, adjusted rates were 3.9 and 7.8 per 100,000 population, respectively. In New Jersey and New York, among black women 15 to 44 years of age, HIV/AIDS moved ahead of malignant neoplasms and heart disease and became the leading cause of death in 1987 (Table 2).

*Associated causes of death*

To examine other causes of death associated with HIV-related deaths, we used 1987 multiple-cause mortality data and identified 1157 deaths in women 16 to 44 years of age that included any mention of HIV/AIDS (category Nos. 042 through 044). Human immunodeficiency virus/AIDS was listed as the underlying cause on 1016 (88%) of these death certificates. Conditions within the AIDS surveillance definition were listed as an underlying or multiple cause on 84.8% of the death certificates: among these, *P carinii* pneumonia (19.7%), cryptococcosis (4.0%), and atypical mycobacterial infections (8.3%) were the most common (Table 3). Among conditions not part of the surveillance definition, the most frequently listed cause of death was drug abuse, which was listed on 26.5% of the death certificates. Other causes associated with HIV-related deaths included pneumonia (excluding *P carinii* pneumonia), septicemia, other infections not part of the AIDS surveillance definition, nephritis, noninfectious respiratory conditions, cardiovascular diseases (excluding cardiac arrests), liver diseases, and anemias. Cervical cancer (*ICD-9* 180) was listed as a cause of death on five certificates (0.4%), and pelvic inflammatory diseases (*IDC-9* 614 through 616) was listed on two certificates (0.2%). Complications of pregnancy and childbirth (*ICD-9* 630 through 676) were not listed on any of the death certificates.

To examine further other causes of death that are increasing in association with the HIV epidemic, we compared cause-specific mortality trends in states with high and low AIDS incidence. As expected, death rates of HIV/AIDS or for conditions included in the AIDS surveillance definition increased more rapidly among states with the highest AIDS incidence than among states with lower AIDS incidence (Fig 1). A similar divergence in mortality trends was seen for six conditions not in the AIDS definition: septicemia, pneumonia (excluding *P carinii* pneumonia), pulmonary tuberculosis, drug abuse, immune deficiency other than defects of cell-mediated immunity, and unknown/unspecified causes. For example, in states with a high AIDS incidence, the death rate for septicemia was 0.3 per 100,000 in 1980 and 1.1 per 100,000 in 1987; for those with low AIDS incidence, the death rate for septicemia was 0.8 per 100,000 in 1980 and 0.4 per 100,000 in 1987. Mortality trends for drug abuse and septicemia for states with the highest and lowest AIDS incidence are shown in Figs 2 and 3.

[Charts not reproducible in the Record.]

COMMENT

Although other causes of death among women 15 to 44 years of age have remained relatively stable during the last decade, the death rate due to HIV infection quadrupled between 1985 and 1988 (Fig. 4). Human immunodeficiency virus/AIDS has emerged as an important cause of mortality in US women of reproductive age, especially in the Northeast and among black women. By 1987, HIV/AIDS death rates in New Jersey and New York black women 15 to 44 years of age were comparable with rates reported in adult women of Abidjan, Ivory Coast (31 per 100,000), a West African city with a high prevalence of HIV infection (K. DeCook, MD, oral communications, Centers for Disease Control, January 1990).

Estimates of HIV seroprevalance in women of childbearing age predict much higher mortality in the coming years. A national estimate of the prevalence of HIV infection in 1988 among women who deliver infants is 140 per 100,000 (M. Gwinn, MD, oral communication, Centers for Disease Control, January 1990); this rate is 60 times higher than the 1988 mortality for HIV/AIDS in women 15 to 44 years of age. A 1-year study of births in New York State found seroprevalance rates as high as 2% to 4% in New York City areas with high rates of drug use. Because of the large number of women already infected, mortality due to HIV infection in women will undoubtedly rise, with particularly high rates in black and Hispanic populations.

Moreover, our estimates of the number of deaths attributable to HIV/AIDS are conservative. The 1987 death rates included only the 1016 deaths that listed HIV/AIDS (category Nos. 042 through 044) as the *underlying* cause of death. There were 141 death certificates that listed HIV/AIDS as an associated cause of death but not as the underlying cause and 144 more death certificates that listed Kaposi's sarcoma, *P carinii* pneumonia, or laboratory evidence of HIV infection (category No. 795.8) as a cause of death without listing HIV/AIDS. If these deaths are included as deaths attributable to HIV/AIDS, the total number of deaths would increase by 28% (from 1016 to 1801).

In addition, by comparing cause-specific mortality trends in states with high and low incidences of AIDS, we identified causes of death not in the AIDS surveillance definition that increased in association with the HIV epidemic. Deaths that increased included several infections not in the AIDS surveillance definition (septicemia, pneumonia [excluding P carinii pneumonia], and pulmonary tuberculosis), drug abuse, immune deficiencies other than cell-mediated immune deficiency, and unknown/unspecified cases. These findings are similar to those found in young men.[8] It is likely that many of these deaths reflect the spectrum of infectious complications and immune defects caused by HIV infection or variations in the way physicians report HIV-related immune deficiencies or conditions on death certificates.[9,10] In some instances, these deaths may reflect unrecognized cases of HIV infection or reluctance by physicians to specify AIDS or HIV on death certificates.

It is notable that pregnancy complications, cervical cancer, and pelvic inflammatory disease were listed rarely among HIV-related deaths in women. Studies in the United States of pregnant, HIV-infected women have not documented a clear increase in obstetric complications ascribed to HIV infection.[11,12] A few small studies have reported associations between HIV infection and cervical intraepithelial neoplasia[13,14] and pelvic inflammatory disease,[15] but we found few HIV-related deaths with either cervical cancer (0.4%) or pelvic inflammatory disease (0.2%) listed as a cause of death. For comparison, cervical cancer and pelvic inflammatory disease accounted for 1.9% and 0.1%, respectively, of all deaths in 1987 among US women 15 to 44 years of age. However, cervical cancer and pelvic inflammatory disease may not be conditions that would be detected or considered an associated cause of death in women who die of HIV/AIDS.

For women of reproductive age, comparing HIV/AIDS with other causes of death by comparing cause specific death rates belies an important distinction. Unlike numbers of deaths from cancer, heart disease, and unintentional injuries, the number of deaths due to HIV infection in women has direct implications about the number of deaths that will occur in infants and children due to HIV infection. As of December 1989, approximately 80% of the 1,995 children diagnosed and reported with AIDS acquired HIV from their infected mothers.[16] Because most women with AIDS are intravenous drug users or sex partners of intravenous drug users, the care of both the

women and their children depends heavily on public resources. For perinatally infected infants who are active Medicaid users, estimated costs range from $18,000 to $42,000 per year.[17] As the number of pediatric cases increases, the medical and social costs will become staggering.

The number of new cases of AIDS in women of reproductive age continues to increase (in 1989, there were 2,825 new cases reported in women 15 to 44 years of age); consequently, deaths due to HIV/AIDS will continue to rise. In 1987, HIV infection was the eighth leading cause of death in U.S. women of childbearing age. In 1988, the death rate due to HIV/AIDS was 40% higher. If current mortality trends continue, AIDS can be expected to become one of the five leading causes of death by 1991. Because women infected with HIV are the major source of infection for infants with AIDS, these trends in AIDS mortality in women forecast the impact of the HIV epidemic on mortality in children as well.

TABLE 1.—DEATHS ATTRIBUTABLE TO HIV/AIDS IN WOMEN 15 to 44 YEARS OF AGE, UNITED STATES 1980 THROUGH 1988 [1]

| Year | No. of Deaths | Death rate | Age adjusted death rate |
|---|---|---|---|
| 1980 | 18 | 0.03 | 0.03 |
| 1981 | 30 | .06 | .06 |
| 1982 | 36 | .07 | .06 |
| 1983 | 92 | .17 | .16 |
| 1984 | 198 | .35 | .34 |
| 1985 | 380 | .83 | .60 |
| 1986 | 531 | 1.10 | 1.02 |
| 1987 | 1016 | 1.75 | 1.62 |
| 1988 [2] | 1430 | 3.46 | 2.24 |

[1] Data from the National Center for Health Statistics. Centers for Disease Control, Atlanta, Ga. HIV indicates human immunodeficiency virus, AIDS; acquired immunodeficiency syndrome.

[2] For 1987 and 1988, data are based on deaths assigned to category numbers 043 to 044. Data for 1988 are provisional, based on a 10% samples of deaths.

Notes: Deaths per 100,000 population in women aged 15 to 44 years. Age adjusted to the 1980 U.S. population, women aged 15 to 44 years. For 1980 to 1988, data are based on deaths assigned to (underlying cases) International Classification of Diseases, 9th Revision, category numbers 279.1, 173.0 to 173.9 and 136.3.

TABLE 2.—DEATHS AND DEATH RATES FOR THE 10 LEADING CAUSES OF DEATH AMONG BLACK WOMEN 15 TO 44 YEARS OF AGE, NEW JERSEY AND NEW YORK, 1987

| Rank and cause of death | No. of deaths | Adjusted death rate [1] |
|---|---|---|
| **New Jersey** | | |
| 1. Human immunodeficiency virus/acquired immunodeficiency syndrome | 121 | 40.8 |
| 2. Malignant neoplasms | 96 | 30.1 |
| 3. Diseases of the heart | 71 | 23.1 |
| 4. Unintentional injuries | 67 | 20.3 |
| 5. Homicide and legal intervention | 29 | 10.2 |
| 6. Chronic liver disease and cirrhosis | 23 | 7.3 |
| 7. Pneumonia and influenza | 21 | 7.0 |
| 8. Septicemia | 15 | 6.1 |
| 9. Cerebrovascular diseases | 14 | 4.6 |
| 10. Nephritis, nephrotic syndrome, nephrosis | 10 | 3.4 |
| **New York** | | |
| 1. Human immunodeficiency virus/acquired immunodeficiency syndrome | 235 | 29.5 |
| 2. Malignant neoplasms | 202 | 23.8 |
| 3. Homicide and legal intervention | 130 | 17.5 |
| 4. Diseases of the heart | 136 | 16.3 |
| 5. Chronic liver disease and cirrhosis | 91 | 10.5 |
| 6. Unintentional injuries | 80 | 10.4 |
| 7. Pneumonia and influnza | 67 | 8.4 |
| 8. Cerebrovascular disease | 56 | 6.7 |
| 9. Septicemia | 27 | 3.4 |
| 10. Chronic obstructive pulmonary diseases | 22 | 2.7 |

[1] Deaths per 100,000 women age 15 to 44 years, age adjusted to the 1980 U.S. population of women age 15 to 44 years

TABLE 3—ASSOCIATED CAUSES OF DEATH ON CERTIFICATES WITH ANY MENTION OF HIV/AIDS [1] (n = 1167) IN WOMEN 16 TO 44 YEARS OF AGE, UNITED STATES

| Cause | No. (percent) of deaths |
|---|---|
| Conditions in the AIDS definition | 403 (34.8) |
| Pneumocystic cannis pneumonia | 228 (19.7) |
| Cryptococcosis | 46 (4.0) |
| Atypical mycobacterial infections | 33 (3.3) |
| Candiasis | 31 (2.7) |
| Other conditions | 205 (17.7) |
| Drug abuse | 307 (25.5) |
| Pneumonia | 163 (14.1) |
| Septicemia | 113 (9.8) |
| Other infections not in the AIDS definition | 86 (7.4) |
| Nephritis, nephrotic syndrome, nephrosis | 66 (8.7) |
| Respiratory disease | 55 (4.8) |
| Cardiovacular diseases | 52 (4.5) |
| Liver diseases | 47 (4.1) |
| Anemias | 45 (3.9) |

[1] Category number 042 to 044. HIV indicates human immunodeficiency virus: AIDS, acquired immunodeficiency syndrome.

Note: Limited as an underlying or multiple cause.

FOOTNOTES

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REMARKS BY LOUIS W. SULLIVAN, M.D., SECRETARY OF HEALTH AND HUMAN SERVICES

(Morehouse Symposium on AIDS, Atlanta GA)

Thank you very much, Sid. I am happy to be home again, and deeply honored to bring you greetings from the President of the United States, and 114,000 men and women at the Department of Health and Human Services.

My purpose today is to ask that we all be aware of the people we are losing to AIDS, and not just the numbers; to ask that you emphasize the benefits of AIDS research for all mankind; and that you proudly tell the world about our efforts to research, prevent and treat HIV disease and AIDS, and to protect the civil rights of those who need it most.

There is no better place to begin than with what is happening in this city. Atlanta, with 2,903 diagnosed AIDS cases, is among the top 10 U.S. cities in the nation with the highest number of AIDS cases. Georgia, with 3,816 reported cases of AIDS, ranks among the 10 leading states. In the course of this symposium, those numbers will grow.

By the end of August, more than 146,000 AIDS cases were reported in the U.S. By 1993, the Centers for Disease Control expects that number to triple, to almost half a million cases. The nearly 90,000 AIDS fatalities recorded could increase almost 4-fold, to 340,000, in that same time period.

We know that 57 percent of the people with AIDS in the U.S. are non-Hispanic whites; 27 percent are non-Hispanic blacks; and 16 percent are Hispanic. This symposium reflects the fact that minorities are contracting AIDS at a far greater rate than their portion of the population. And among pediatric cases, 3 patients out of 4 are minorities, over half of them black.

Not numbers, but names—is how we ought to read the toll of those who die of AIDS. They are human beings—the men, women and children who might have been the next Charles Drew, or Mary McLeon Bethune; another Ralph Bunche, or Benjamin Mays; perhaps even a Roberto Clemente, the baseball legend and humanitarian.

We are losing the next generation of leaders—losing them, by and large, to high risk sexual behavior and intravenous drug abuse. It is not enough for you to be researchers and care givers. I ask that you become role models and teach our young people what they must know to protect themselves. You could become a champion in the eyes of a child, and a hero in the heart of a nation by helping our young people.

So my first charge to you in keynoting this conference is to ask that you remember the people we are losing, and let it energize and stimulate your research, your compassion, and your contribution to your communities. Behind the numbers, behind the names of those who died of AIDS, are human beings whose accomplishments could have been recorded in our history books. They are our children . . . our brothers and our sisters. They might have been our heroes.

And it is getting worse. Our data show that over half of all black Americans with AIDS are either IV drug users; sex partners of users; or childiren born to mothers who use IV drugs, or who had drug abusers as sex partners. The percentage of all AIDS cases in the IV drug category is increasing. We can expect the proportion of AIDS patients who are black and Hispanic to grow.

We must never allow funding for research, prevention and treatment of this disease to become the hostage of old prejudices.

Some people raise questions about spending so much on a disease which, in relative terms, kills so few. Heart disease kills 1 million people each year; cancer kills half a million a year. In more than 9 years, AIDS has killed fewer than 90,000 people in the U.S. There is little wonder that the Office of Technology Assessment, an agency of the Congress, has reported that half the scientists responding to a poll complained that we are spending too large a proportion of our research and education dollars on this one disease.

So my second charge to you today is that you emphasize not only the unique danger of this communicable disease but the benefits of AIDS research in the treatment of many different diseases. Work with your colleagues to emphasize that what we learn about AIDS will help cure other diseases. Your work on AIDS will give us a new understanding of viruses, the immune system itself, and molecular biology.

Tony Fauci, who runs the AIDS research program at NIH, says research on AIDS may give us insights into degenerative diseases such as multiple sclerosis, and autoimmune diseases such as lupus. CDC director Bill Roper will talk later about how AIDS has had a lasting impact on improvements in our public health infrastructure.

Emphasize the broad benefits of AIDS research for all. This is not a special interest disease. Research on HIV and AIDS will not benefit just the hundreds of thousands, but millions more whose lives will be improved by what science discovers.

AIDS is everywhere. The Global Program on AIDS says it is out of control. The Pan American Health Organization which does not gather data by race, reports that, "the epidemic continues to increase throughout the Region of the Americas. Case data reported * * * suggest annual incidence rates * * * reached up to 653 * * * per million population, and are increasing * * *."

We are told that, "seroprevalence varies from zero among low risk groups * * * to a high of 54 percent among contacts of infected individuals * * *" in some areas. There were more than 23,000 cases of AIDS at last report, and an estimated 500,000 people infected with HIV, in Latin America.

In Africa, AIDS is undoing all that has been done to improve the health of children. The U.S. Agency for International Development reported in July that immunizations, oral rehydration therapy, birth spacing, improved nutrition, and prevention of vitamin A deficiency brought about "remarkable strides in increasing the health and survival of children * * *." The report added, that, "With the continual spread of HIV infection, however, those gains are increasingly likely to be reversed."

The U.S. AID study reported that in Kampala, Uganda, almost 1 woman in 4 at one clinic was HIV positive. Perinatal transmission rates are as high as 4-in-10. Anywhere from one-half to almost all HIV-infected children will die by age 5.

U.S. AID says Africa is the continent most affected by HIV and AIDS. There is a higher rate of HIV infection there than elsewhere in the developing world. The World Health Organization estimates 2.5 million Africans are HIV positive, and that in 20 years, Africa will have more HIV cases than any other continent.

In Africa, less than $3 per person per year is devoted to health care. The experts say Africa cannot afford the cost of treatment for AIDS, and prevention is the only hope.

What is happening in Africa could be the precursor to what might happen elsewhere. The distinguished physician and scholar, Dr. Lewis Thomas, says that we must put Africa at the top of the list for epidemiological and virological studies. He says, "The really urgent matter . . . is Africa, with the plainest evidence that we are, in our part of the world, only in the first stage of what will perhaps become * * * the most devastating and lethal pandemic in the memory of mankind."

Of all the nations in the world, the United States of America contributes more money to the World Health Organization to help fight AIDS abroad than any other country. We are helping in Zaire, and Cote d'Ivoire, and let me add that we help in Thailand, too, with research and prevention strategies. We provide technical assistance programs to Jamaica and the Central African Republic. We offer training in HIV surveillance and disease control in Ethiopia, Uganda, Kenya, Honduras, Papua New Guinea, and Colombia. In Romania, we provided epidemiologic assistance in an investigation of an outbreak of HIV infection among the country's children.

So there is one more charge that I must give you. We are the professionals. We know that the escalation of AIDS as a national priority is unprecedented in U.S. public health history. Share that information with family and friends, with patients and colleagues, with reporters who interview you. Put it in your articles and your speeches. We face financial constraints. We always have, we always will. But we are doing a lot more than most realize, and much more than anyone else.

Overall, federal spending on AIDS will have increased from $8 million in 1982 to $3.5 billion in 1991. Let me quote from the President's propsoed budget: "In total, the 1991 budget proposes an 18 percent increase [or $527 million] over 1990 for all federal HIV/AIDS programs, including a 7 percent increase in research, a 16 percent increase in prevention efforts, a 27 percent increase in treatment, and 39 percent increase in income support for individuals." And that is not all. As President Bush has said, "our $10 billion war on drugs is also a war on AIDS."

We made remarkable progress in uncovering the nature of the virus that causes AIDS. We approved, in record time, medications that are lengthening lives. Today, people are living with AIDS and HIV infection. We continue our efforts to see that those medications reach minorities who might not have access to the help they need.

We expedited approval of AZT, and later DDI. We approved Alpha 2 interferon for Kaposi's Sarcoma; aerosolized pentamidine for prevention of pneumocystis pneumonia; ganciclovir for treating viral retinal infections and fluconozol for life-threatening fungal infections. The Food and Drug Administration has approved more than 300 Investigational New Drug Applications relating to the treatment of HIV and AIDS.

Last year I announced the creation of Community Programs for Clinical Research on AIDS that would locate 18 AIDS treatment research programs in 14 cities where the impact of the HIV epidemic is severe, including Atlanta. These clinical trials of promising experimental AIDS therapies are designed to reach out to blacks, Hispanics, women, and intravenous drug users who are infected but who might not enter clinical trials or receive treatment were it not for these programs.

In May, I said we will increase our efforts to make investigational new drugs available to those with AIDS and HIV-related diseases. We are working to develop a "parallel track" that allows promising experimental therapies to be administered to AIDS patients who are not able to participate in the traditional clinical studies of these drugs.

Last month I said we will compare the effectiveness of two drugs to prevent toxoplasmic encephalitis, a life-threatening parasitic infection affecting the brain of some AIDS patients.

We are funding 50 new multidisciplinary postdoctoral fellowships in AIDS research to ensure an adequate pool of trained biomedical scientists and clinical investigators to confront the research challenges of AIDS.

Finally, just this month, in 30 community-based clinics in the U.S. and Canada, we began a longitudinal study of persons who are HIV-positive. It is the largest study of its type ever conducted. It will involve hundreds of physicians, and thousands of patients including women, Hispanics, blacks, and IV drug users who were underrepresented in earlier research. We will learn more about the course of the disease. It will help us identify areas where new research is needed, perhaps help us find new approaches to treatment, and identify patients eligible for clinical trials of experimental AIDS therapies.

We continue to emphasize prevention. Our Broadcast Information Service inaugurated this month offers public service announcements on AIDS and other diseases for minority radio stations. Translations are available in Spanish.

We know that children who are able to learn can be taught to protect themselves against AIDS. HHS is deeply involved in the President's commitment to improve education. By the year 2000, we want all children to start school ready to learn. We work closely on that with the Department of Education. Our goal is that next year Head Start will serve nearly 70 percent of the eligible children.

In January, President Bush and I asked for a $500 million increase in Head Start, the largest increase in its 25-year history. Helping Head Start is helping minorities because two-thirds of the participants are minority Americans. Almost 40 percent are black children. Preventing AIDS means promoting education.

I wish my parting words could be an inoculation with an effective, safe AIDS vaccine. I cannot do that today, or tomorrow. But the dramatic spread of HIV and AIDS around the world demands that we develop that vaccine. Maybe it will come out of this symposium. Maybe the interaction of colleagues, the questions, the speeches, the papers and the private discussions and invitations for collaboration will lead us to that vaccine.

As a Morehouse man, a physician, medical educator and clinical researcher, and as Secretary, you have my very best wishes for a productive, rewarding, successful symposium.

Thank you all.

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[From Business Week, Sept. 17, 1990]

NO, SPENDING MORE ON AIDS ISN'T UNFAIR

(By Naomi Freundlich)

Just a year or so ago, it would have been political suicide for a scientist, politician, or

journalist to speak out against increased spending for AIDS research. After a regrettably slow start, the federal government took up the campaign in 1988 and has steadily increased research funding in an effort to curb the deadly epidemic. By the end of fiscal 1989, AIDS had garnered nearly $2.5 billion in government funds. And this year, the National Institutes of Health will kick in $740 million more. Last month, Congress allocated an additional $875 million for states to use for AIDS treatment.

Now, as activists stage protests demanding even more money for AIDS, a backlash is forming. For a few critics, the attack is a value judgment on the lifestyles of AIDS sufferers. Other critics just question whether AIDS research should be such a high priority. Politicians from rural states, for instance, complain that the funds Congress is allocating for AIDS won't be used to fight other diseases. And there is growing resentment among some cancer and other non-AIDS researchers.

They charge that a project without a mention of AIDS in the title runs an unfair risk of getting turned down. An Office of Technology Assessment report released last April shows how pervasive that feeling is. Of some 148 scientists who answered a poll on AIDS research. nearly half complained that too much funding has been diverted to AIDS. This year, some 1 million people will die of heart disease, and an additional 300,000 or so of cancer. So why, the argument goes, spend so much on a disease that has killed just 83,000 Americans in nine years?

In for a shock. It doesn't take much digging to come up with the answer. Heart disease and cancer occur at a fairly stable rate. AIDS, by contrast is an infectious disease and can spread rapidly through a population. In fact, the number of cases is expected to triple in the U.S. by 1998. And in the next decade alone, doctors will be treating a million or more people who are already infected with HIV, the virus that leads to AIDS.

Beyond that, the most recent figures from the Centers for Disease Control in Atlanta show that the malady is no longer confined to gays and drug users. Countrywide, the ratio of men to women who carry the HIV virus has dropped from 11 to 1 early in the epidemic to close to 3 to 1 today. In some rural areas, says Dr. June E. Osborn, dean of the University of Michigan's School of Public Health and chairwoman of the National Commission on AIDS, the ratio is closer to 1 to 1. Because the number of people infected with HIV in these rural areas is growing faster than in urban centers, that raises the specter of a heterosexual epidemic such as is now sweeping parts of Africa. And unlike cancer and heart disease, which usually strike older people, AIDS is a disease of the young. Some 82% of its victims are below the age of 44—in the most productive years of their lives.

If all this isn't reason enough to fund AIDS work, there is one more factor. According to Osborn, AIDS research is yielding a wealth of knowledge about viruses, cancer, the brain, and, most important, the immune system. "We have already learned many broadly important facts about how the body works, and there have been more spin-offs for cancer and other diseases than for AIDS directly," she says. For example, she adds, before AIDS, there was only speculation that the immune system helps fight off cancer. Now, boosting the body's defenses has become a key part of cancer research. The OTA report came to the same conclusion, citing benefits in public health, epidemiology, and basic science from AIDS research.

Small Pie. If there is a problem of scarce resources, moreover, it's not that money used for AIDS is being taken away from cancer and heart disease. It's true that the AIDS share of the NIH budget is rising rapidly. Funding for AIDS is growing 23% this fiscal year, while support for non-AIDS research is rising by only 4.4%. But William F. Raub, acting director of the NIH, says there is no guarantee that AIDS money would have gone to other diseases. More likely, it would have been used elsewhere in the federal budget, he says.

The problem he and others see is too little funding for biomedical research in general. The U.S. spent $600 billion last year on health care—but just 2% of it went to research on disease. Only one-quarter of the research grants submitted to NIH are now approved. Compared with 60% in 1975. That's because the funding pie is growing slower than both the cost of research and the number of scientists clamoring for a slice. As a result, young investigators are less able to get research funds, and even established researchers are leaving basic science to work in industry or to practice medicine.

For many researchers and other critics, AIDS funding is a convenient target. But ultimately, the real issue is how much should be spent on biomedical research. Giving AIDS short shrift while that question is hashed out would be a tragic mistake.

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## How Has Federal Research on AIDS/HIV Disease Contributed to Other Fields?

(By Jane E. Sisk, Study Director; Maria Hewitt, Study Co-Director; Paula Chludzinski, Research Assistant)

(The views expressed in this Staff Paper do not necessarily represent those of the Technology Assessment Board, the Technology Assessment Advisory Council, or their individual members.)

### SUMMARY

The House Committee on Government Operations, Subcommittee on Human Resources and Intergovernmental Relations asked the Office of Technology Assessment (OTA) to document the extent to which federally funded research on AIDS/HIV has contributed to advances in other fields including biomedical and behavior research, prevention, patient care, and health care financing. In response to this request OTA conducted a survey of distinguished biomedical and social scientists. This Staff Paper reports on the results of that survey.

In February 1990, OTA mailed a questionnaire to a multidisciplinary group of scientists that asked them to rate the contributions of federally funded AIDS/HIV research to advances in 42 different fields that comprised five broad areas; basic sciences, medicine, applied medical sciences, epidemiology, and public health and health services research. OTA also asked the scientists to express their opinions about the current level and allocation of federal funds for research. Thirty-seven percent of 400 scientists asked to complete the questionnaire completed it.

According to OTA survey respondents, significant benefits from AIDS/HIV research have flowed to a wide variety of fields. More than one-half of respondents indicated that AIDS/HIV research had contributed substantially to the basic science fields of virology, immunology, microbiology, and molecular biology. An increased understanding of gene expression, the immune system, viral evolution, and disease susceptibility were among the specific examples of contributions to advances in the basic sciences cited by respondents.

Infectious disease, oncology, neurology, hematology, and pulmonary medicine were medical disciplines cited by at least 40 percent of respondents as having benefited greatly from AIDS/HIV research. Increased insights into mechanisms of dementia and multiple sclerosis, and improved understanding of the development of children's immune systems are among the contributions of AIDS/HIV research to advances in medical research cited by respondents. More than one-third of respondents felt that AIDS/HIV research had contributed substantially to advances in diagnostics, drug development, other therapeutics, and vaccine development.

In the areas of public health and health services research, OTA survey respondents indicated that AIDS/HIV research has led to improved epidemic-modeling techniques, has furthered the development of new methods for the conduct of clinical trials, has stimulated research on health behavior change, and has provided prototype programs for targeting health education to high risk populations. Furthermore, AIDS/HIV research was cited as having stimulated research on community-based models of care, clarified routes and mechanisms of sexually transmitted disease, provided insights into the effectiveness of drug treatment programs, and improved our understanding of social stigma and prejudice.

Nearly one-half of respondents indicated that Federal spending for AIDs/HIV research was about right and nearly one-third felt that spending was too low. A near equal proportion agreed as disagreed (48 vs. 44 percent) that too much of available research funding has been diverted to AIDS/HIV research from other fields. Not surprisingly, opinions about the level of Federal spending for AIDS/HIV research vary according to whether the respondent had received Federal funds, and whether those funds were for AIDS/HIV or non-AIDS/HIV research. As those not in receipt of any external funding (nearly one-half of OTA survey respondents) are more likely to be "unbiased" in their opinions regarding funding, their responses are of special interest. Over 80 percent of respondents without external support felt that AIDS/HIV funding is about right or too low, and while more than one-half did not agree, nearly one-third agreed that too much research funding has been diverted to AIDS/HIV research from other areas.

In conclusion, results from the OTA survey indicate that, in the opinion of the scientific community, AIDS/HIV research has made many important contributions to advances in biomedical and behavioral sciences. This finding is especially noteworthy given that substantial lead time is needed for advances to influence other fields. The dominant sentiment of survey respondents supports current or augmented Federal AIDS/HIV research spending levels. At the same time, opinion was divided on the question whether too much research funding has been diverted to AIDS/HIV research from other fields. The results raise for continued consideration the appropriate allocation of research funds among HIV, other targeted areas, and basic science.

Mr. HARKIN. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Massachusetts and the distinguished Senator from New Jersey.

For the record, Mr. President, I wish to point out that the bill already contains $305 million of Alzheimer's, which is double from last year, double the amount of money for Alzheimer's research.

We also fully fund the NIH's 5-year sudden infant death syndrome plan, which includes $7 million for the second year, for fiscal year 1991.

This bill fully funds the 12 mental retardation research centers and provides funds to start two additional research centers.

For infant mortality, the bill includes $35 million, which is fully funding—there are a lot of programs that are not fully funded in this bill but this is one that is—$35 million to the community health centers for the infant mortality initiative. And we have added over $51 million to the maternal and child health block grant. The block grant is now up to $605 million. Again, some of these funds are targeted to home visiting programs and other efforts to reduce infant mortality.

As I said earlier, I believe we have a well-balanced bill here that addresses legitimate needs in all of these areas. I believe this amendment, trying to upset that careful balance we worked out over the last several months, is ill-advised, and I hope the amendment will not be successful.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I move to lay on the table the amendment proposed by the Senator from North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM] the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

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

The result was announced, yeas 69, nays 23, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—69

| | | |
|---|---|---|
| Adams | Durenberger | Mack |
| Akaka | Exon | McCain |
| Baucus | Fowler | Mikulski |
| Bentsen | Glenn | Mitchell |
| Biden | Gore | Moynihan |
| Bingaman | Gorton | Nunn |
| Boren | Graham | Packwood |
| Boschwitz | Harkin | Pell |
| Bradley | Hatch | Pryor |
| Breaux | Heinz | Reid |
| Bryan | Hollings | Riegle |
| Burdick | Inouye | Robb |
| Byrd | Jeffords | Rockefeller |
| Chafee | Johnston | Rudman |
| Cohen | Kennedy | Sanford |
| Conrad | Kerrey | Sarbanes |
| Cranston | Kerry | Sasser |
| D'Amato | Kohl | Shelby |
| Danforth | Lautenberg | Simon |
| Daschle | Leahy | Specter |
| DeConcini | Levin | Stevens |
| Dixon | Lieberman | Warner |
| Dodd | Lugar | Wirth |

NAYS—23

| | | |
|---|---|---|
| Armstrong | Grassley | Murkowski |
| Bond | Heflin | Nickles |
| Burns | Helms | Pressler |
| Coats | Humphrey | Roth |
| Cochran | Kasten | Symms |
| Dole | Lott | Thurmond |
| Ford | McClure | Wallop |
| Gramm | McConnell | |

NOT VOTING—8

| | | |
|---|---|---|
| Bumpers | Hatfield | Simpson |
| Domenici | Kassebaum | Wilson |
| Garn | Metzenbaum | |

So the motion to lay on the table the amendment (No. 2957) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The Senator from Florida [Mr. GRAHAM] is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to lay aside the pending amendment for purposes of offering an amendment which has been agreed to by the managers.

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

AMENDMENT NO. 2959

(Purpose: To revise provisions relating to State legalization impact assistance grants)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. MCCAIN, Mr. REID, Mr. WILSON, Mr. DECONCINI, Mr. WIRTH, Mr. BRYAN, Mr. SIMON, Mr. ADAMS, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. GRAMM, proposes an amendment numbered 2959.

Mr. GRAHAM. 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 38, strike lines 1 through 7 and insert in lieu thereof the following:

Section 204(a)(1)(B) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking the period at the end thereof and inserting in its place the following: ", and funds appropriated for fiscal year 1991 under this section are reduced by $566,854,000.".

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking "$1,000,000,000" and inserting in its place "$2,000,000,000"; and

(2) by striking the period at the end thereof and inserting in its place the following: "and fiscal year 1991.".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following new paragraph:

"(5) For fiscal year 1992, the Secretary shall make allotments to States under paragraph (1) no later than December 15, 1991.".

An amount equal to 5 percent of amounts expended by a State for educational services under section 204(a)(1)(C) of the Act (or, if greater, $50,000 times the number of all years in which such expenditures are made) may be expended by the State educational agency for its related administrative costs; amounts available to a State for fiscal years after 1988 for public education and outreach to temporary resident aliens under section 204(c)(1)(D) of the Act may also be used for public education and outreach to eligible legalized aliens; and up to one percent of amounts provided to a State under section 204 of the Act in fiscal years after 1968 (or, if greater, $100,000 times the number of such years) may be used for payments under subparagraph (D) of section 204(c)(1), and up to an equal amount may be used for payments under subparagraph (E) of each section, in years after fiscal year 1988.

Mr. GRAHAM. Mr. President, the amendment which I have offered which the managers have indicated they will accept is cosponsored by a number of our colleagues including the Presiding Officer. It deals with a program that we have discussed before.

The purpose of offering this amendment at this point and making a few comments on it is to remind the Senate of this important program and also to alert the Senate that a year from now we are going to be back on this again whereby the commitments made tonight will come to reality.

Mr. President, this program is called the State Legalization Impact Assistance Grants, acronym SLIAG.

This program was the result of the 1986 Immigration Act. At the time that act was being considered it was recognized that by according legalized status to large numbers of persons who had previously been variously

called illegal aliens, undocumented aliens, and other titles that there would be significant cost. Much of that cost would fall upon the States in which those previously illegal aliens would now have acquired legal status.

The agreement which was developed between Congress, the President, and the States was a 7-year program which ran from fiscal year 1988 through fiscal year 1994. Under the program, in the first 4 of those years, there would be $1 billion a year appropriated which would be distributed to the States upon application to finance the various costs such as education and health which the States would be asked to bear as a result of the legalized status of previously illegal aliens.

One billion dollars was appropriated in the first 2 years, that is, fiscal year 1988 and fiscal year 1989. However, last year Congress recognized the fact that there was unexpended funds in the SLIAG account. That should not have been a surprise to anybody because the structure of the program was a 7-year payout, recognizing the fact that there would be extended costs in this assimulation process.

Nevertheless, because there was unexpended funds in the program, last year we diverted funds from this program in the amount of $555,244,000 to other projects within the jurisdiction of the Labor-HHS committee. When we did so we specifically wrote into the law that those plus $555 million would be reauthorized in the same form as the original act but for the fiscal year 1992. This current appropriations bill again dips into the SLIAG appropriation, this time in the amount of $566,854,000.

Again, language is included in this amendment which would do the same thing with these funds as we did last year; that is, give them the same status as the original Immigration Reform Act and provide that those $566-plus million would be appropriated in the 1992 fiscal year.

So, Mr. President, with the adoption of this amendment, in conjunction with the action taken last year, we will be committing ourselves to fund the remaining $1,134,278,000 of this problem in fiscal year 1992.

I take this occasion to bring this matter to the public attention of my colleagues, and of the concerned citizens particularly of those States which have borne most of the national burden of the transition from illegal to legal status of the several million aliens who were affected by the 1986 Immigration Act.

Mr. President, I want to underscore that this Immigration Act of 1986 would not have passed but for the agreement of the States to undertake significant, new responsibilities and to the commitment of the Federal Government to pay a portion of the costs of these responsibilities; two, that we are not fully compensating the States for all of the costs that they have incurred as a result of this Federal action, but this represents a good faith partnership between the Federal Government and the States.

I see this as a moral commitment of the Federal Government. If this commitment is not fulfilled, it will send a clear message to the States that they cannot place their trust in the Congress, not only in this area of immigration refugee policy but a whole range of other important programs that require a functioning partnership between the Federal Government and the States.

Mr. President, I hope that, by adopting this amendment, we will clearly make that commitment to the States, we will clearly indicate that we are prepared to meet our legal and moral obligations, and that the Federal Government can be a trusted partner in this and future relationships with the States.

Mr. President, Senator DIXON has asked to be added as a cosponsor of this amendment. I ask unanimous consent that Senator DIXON of Illinois be so added.

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

Mr. GRAHAM. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa, Mr. HARKIN.

Mr. HARKIN. This amendment converts the committee's bill language on State legalization impact assistance grants into legislative format amending the authorizing statute. It also calls for provisions that appear to be relatively minor, technical, alterations of the law. Neither the administration nor the authorizing committee objects to this language. CBO has scored this amendment as budget neutral.

I urge adoption of the amendment.

Mr. SPECTER. Mr. President, representing this side of the aisle, we have no objection as long as this does not impact on the ability of the Appropriations Committee and this subcommittee to deal with these funds as we have in the past. I want to make sure that there is no impact on our authority.

Mr. GRAHAM. Mr. President, this is essentially almost verbatim other than the technical amendments that are not germane to the principal point of this proposal. What we did last year; that is, we are amending the Immigration and Reform Act of 1986 which called for a $1-billion appropriation in 4 consecutive fiscal years beginning with fiscal year 1988. We are amending that underlying law, it provides that in 1992 the $566-plus million that are being diverted out of the 1991 account will recur. That is what we did in 1990. We are doing it again in 1991.

Mr. SPECTER. I thank my distinguished friend from Florida. I take that to be a yes.

Mr. GRAHAM. Given the action of the committee in 1990 and 1991 duly operating under the same law, including the same sense of a moral commitment which I know that Senators, and particularly Senators of the high ethical standards of those from Iowa and Pennsylvania, feeling a sense of commitment to a preservation of the vitality of our Federalist system will want to see a commitment to the bill.

Mr. SPECTER. With that eloquent confirmation, this side has no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 2959) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, I will just take a moment to thank the Senator from Iowa and the Senator from Pennsylvania. I have worked closely with them over many months on this issue. I will participate, and continue to work with them in the months ahead. I thank them for their very generous, thoughtful, and sensitive cooperation.

AMENDMENT NO. 2960

(Purpose: To prevent a local educational agency from changing payment categories pursuant to section 5(c)(2)(A) of P.L. 81-874 as a result of families moving off base due to a health concern or an environmental hazard)

Mr. HARKIN. 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 Iowa [Mr. HARKIN], for Mr. METZENBAUM, proposes an amendment numbered 2960.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . IMPACT AID.

Section 5(e)(1)(D) of Public Law 81-874 (as amended) (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991 as a result of families moving off base due to a landfill or health concern or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educa-

tional agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for fiscal year 1991.

Mr. HARKIN. Mr. President, I am proposing this amendment on behalf of the Senator from Ohio [Mr. METZENBAUM]. It has been cleared by the minority. It has no budgetary impact on the bill.

It assures that impact aid payments will not be lost to a school district where students are being temporarily removed from the district for hazardous assessment and remediation due to a possible landfill contamination.

Mr. METZENBAUM. Mr. President, my amendment will assist an Ohio school district which is facing a financial crisis due to an unusual and urgent set of circumstances.

The Fairborn, OH, school district educates students who reside on Wright-Patterson Air Force Base, and as a result is entitled to Federal impact aid payments. A number of these students live in the Woodland Hills housing development on the base. This development is located within close proximity to two landfills, and residents have been extremely concerned about the possible health hazards associated with the landfills. Because of these concerns, the Air Force is moving some 60 families off the base temporarily while risk assessment and remediation for any hazards are conducted. Obviously, the health and safety of these families must be the main concern, and I am pleased that the base has taken this action.

However, if only 54 children who attend Fairborn schools move off the base, the school district will be dropped into a lower impact aid category, significantly reducing their payment and causing a serious financial hardship.

This amendment will allow the Fairborn schools to remain in their category while the situation is being resolved, and will help to make this unfortunate situation a little easier for both the schools and families affected.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2960) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2961

(Purpose: Technical corrections to Human Development Services and Health Resources and Services Administration accounts)

Mr. HARKIN. 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 Iowa, [Mr. HARKIN], proposed an amendment numbered 2961.

Mr. HARKIN. 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 16, line 24, change "$2,472,940,000" to "$2,474,940,000".

On page 40, line 6, change "$3,500,528,000" to "$3,501,278,000".

On page 40, line 19, after the word "claims" insert the following: ": *Provided further*, That of the total amount provided, $47,352,000 shall be transferred to "Human Development Services" account for part B of title IV of the Act".

Mr. HARKIN. Mr. President, first, this is a technical amendment to correct a printing error. Although this provision was in the subcommittee recommendation and adopted by the full committee, it was inadvertently left out of the bill when it was printed. The language was provided in order to provide additional funding for the child welfare services.

The second and third corrects the bill for amendments inadvertently left out of the bill totals. The first is in relation to the $750,000 for the university-affiliated program, and the second relates to $2 million for the excellence in minority education program.

I urge adoption of the amendments en bloc.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2961) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair would inform the managers that the pending question is the committee amendment.

AMENDMENT NO. 2962

(Purpose: To require that funds appropriated to make grants for the establishment and operation of independent living centers be used to support entities currently receiving the grants)

Mr. SPECTER. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislation clerk read as follows:

The Senator from Pennsylvania, [Mr. SPECTER], for Mr. DOLE, proposes an amendment numbered 2962.

Mr. SPECTER. 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 52, line 25, insert after "deaf adults" the following: ": *Provided*, That, until October 1, 1991, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section".

Mr. DOLE. Mr. President, I am glad that this amendment has been accepted on both sides of the aisle. The purpose of this amendment is technical in nature and will delay for 1 year the competitive grant process for independent living center grantees under the Rehabilitation Act of 1973. This extension will not impede the crucial services provided by independent living centers in any way.

Next year, we will once again reauthorize the Rehabilitation Act, which will give us ample opportunity through the ovesight process to carefully evaluate these programs. The extension will also allow the Rehabilitation Services Administration additional time to develop and publish the standards and indicators that will provide important criteria for the continuation of grants.

The indicators, however, are not the sole reason for delaying implementation of the competitive grant process. We can all attest to a new direction in national disability policy, and we all look forward to discussing issues related to the independent living centers in ensuring their important contributions to enhancing the lives of Americans with disabilities.

Mr. SPECTER. This amendment would postpone for 1 year the competition of the independent living centers. These centers have been noncompetitive, I am told, since 1979. The Rehabilitation Act stipulates that in fiscal 1991 these centers will be competitively awarded.

Mr. President, I believe this has been cleared on both sides.

Mr. HARKIN. We have no objection to the amendment.

Mr. SPECTER. I urge adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2962) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

TELEPHONE DEVICES FOR THE DEAF IN SOCIAL SECURITY OFFICES

Mr. KASTEN. Mr. President, I wish to thank the chairman and ranking member of the Labor/HHS Appropria-

tions Subcommittee for accepting my request for funding for the procurement of telephone devices for the deaf—TDD's.

Unfortunately, many Social Security questions and communications cannot be handled by the general operator who staffs the Social Security 800-TDD line. These communications, which may involve specific questions regarding appointments, followups on documentation, or inquiries about additional information necessary for an application or other proceeding, can only be handled by the local caseworker responsible for a client's file. Currently, there is no way for the deaf client to gain direct access by telephone to this person.

Additionally, Mr. President, written communications from local Social Security offices often require telephone followup by Social Security beneficiaries. Many letters from Social Security include the local caseworker's voice telephone number, and instruct the recipient to telephone that number within a limited number of days.

In an effort to provide equal access to all citizens—including the deaf—startup costs of $300,000 for the installation of TDD's in local Social Security offices have been included in Health and Human Services appropriations for fiscal year 1991.

This is an important step—and it puts us on the right track toward full rights for the hearing-impaired.

FUNDING FOR THE DEMONSTRATION PARTNERSHIP PROGRAM

Mr. KASTEN. Mr. President, I wish to thank the members of the Appropriations Committee for accepting my amendment in full committee markup. My amendment provides $500,000 for the Demonstration Partnership Program. This program will provide new and innovative approaches to addressing the problems and needs of disadvantaged youth.

Mr. President, youth crime, gang involvement and drug abuse are growing at alarming rates in this country. The youth involved, most of whom are low-income, minority males, have little hope for their own futures. These youth are unfortunately exposed to few achievable alternatives to a life of gang membership, crime, and drug abuse, and frequently end up as adult prison inmates at great expense to taxpayers.

My amendment provides opportunities for leadership development, community involvement, and educational success to disadvantaged persons between the ages of 14 to 25 from populations experiencing conditions such as a high poverty rate, high unemployment, high dropout rate, low labor force participation, low college enrollment or participation in other post-high school training classes, high incidence of involvement in violence and a high rate of incarceration.

During its 16 months of operation, the minority male opportunity and responsibility project [MMOR] in Milwaukee had 364 individuals referred to the program. Of this number, 125 were formally enrolled into the project. Thirty-three have obtained full-time employment—earning between $4.50 to $5 per hour—and are now totally or partially self-sufficient. Many of the other participants are working full-time as well.

The funding provided by my amendment enables this excellent program, along with other such programs in the country, to expand and continue.

Mr. President, it is imperative that we provide the necessary resources to help disadvantaged young people have another chance at life—by offering them opportunities to succeed.

Mr. RUDMAN. Mr. President, September snow flurries on Mount Washington in the New Hampshire White Mountains send shock waves through the community action programs in my State who face the very difficult problem of making limited fuel assistance budgets serve an increasing population of poor and elderly households. Winter is always a difficult time for low-income households in New Hampshire, but this year, skyrocketing home heating oil prices, coupled with an economic downturn throughout New England make keeping warm during the 1990-91 heating season an increasingly difficult challenge.

The action taken by the Senate Appropriations Committee earlier this week to provide $1.45 billion for the Low-Income Home Energy Assistance Program [LIHEAP] and an additional $200 million for an energy emergency contingency fund will lessen the burden low-income households face from home heating oil prices that are 30 to 50 cents per gallon higher than they were only a year ago. I deeply appreciate the assistance of the chairman and ranking Republican member of the Labor-HHS-Education Appropriations Subcommittee in working with me to find a way to buffer our less fortunate citizens from the effect of rising energy prices. Our work is not done, but we have taken the first step in a commitment to provide a minimal level of protection for the 4 million low-income families throughout this country who heat their homes with oil, kerosene, or liquid propane gas.

Mr. President, the funding levels provided in H.R. 5257 will help to hold the LIHEAP program harmless from increases in oil prices. Every $10 increase in the price of a barrel of oil translates into an additional $200 million that is needed to provide the same energy benefit that was provided to low-income households during last year's heating season. The average LIHEAP recipient has a family income of $7,000 a year and in normal years spends over 13 percent of their income on home energy. The very poorest households in my State receive a maximum benefit of $450 per heating season. These program benefits mean not having to choose between heating a home and putting food on the table for more than 23,000 New Hampshire households.

Less than a year ago, States like New Hampshire were facing devastating energy crises. The Senate Governmental Affairs Committee on which I serve held a hearing to review the impact of plummeting temperatures, skyrocketing oil prices and the long-term decline in LIHEAP resources on the poor. Larry Kelly, executive director of Tri-County Community Action Programs, Inc., of Berlin, NH, testified and shared examples of the impact that energy crisis had a low-income individuals and families in New Hampshire's north country. One of the most poignant examples included in that testimony was the plight of a young single mother in her early thirties who had her 18-month-old child removed from her home by State welfare authorities because she couldn't provide adequate heat and electricity for her child.

Mr. President, there are 4 million more heart-breaking stories that could be told—the same number as there are low-income families throughout the country who heat their homes with oil, kerosene, or liquid propane gas and who will struggle this winter to pay increased energy costs. In reality, energy price increases result in homelessness, illness, and death for countless families.

We have taken the first step to assist our low-income households trying to cope with the extraordinary circumstances in world oil markets and the subsequent increases in home heating oil prices. I intend to continue my efforts to ensure some relief is provided to our most needy citizens.

Mr. ADAMS. Mr. President, to the distinguished chairman of the Labor, HHS Subcommittee of the Appropriations Committee, I would like to say that I am most appreciative of his hard work, under very difficult circumstances, in crafting the fiscal year 1991 Labor, HHS appropriations bill. As a member of the subcommittee, I am well aware of the array of important demands you have had to balance within the constraints of the funds available to the subcommittee. He has done an outstanding job of responding to many and diverse human needs.

As I indicated earlier today, I am especially pleased with the funding levels for the Older Americans Act [OAA]. OAA programs, such as congregate and home-delivered meals, transportation, in-home long-term care services, legal assistance, and others, are vital to the elderly, particularly to low-income, minority, and

other vulnerable older Americans. OAA programs have gone too long without a meaningful increase in funding. Your commitment to funding these programs is evident in the recommended funding levels.

Mr. President, there are a few small, but important, items concerning the OAA that I would like to have some clarification on. As the chairman of the Subcommittee on Aging of the Labor and Human Resources Committee, I know how significant these clarifications will be.

First, the Long-Term Care Ombudsman Program is a critical service that investigates the complaints and concerns of those who must reside in nursing homes and board and care facilities. This exemplary program, which relies extensively on trained volunteers, has proven itself over and over again. Yet, all affected parties agree that it is terribly underfunded and is unable to reach tens of thousands of institutionalized elderly, much less respond to their problems.

The 1987 amendments to the OAA added for the first time a specific authorization level for the program. This bill makes an important step in the right direction by recommending $3,000,000 "to continue and expand support" for this program. Am I correct in understanding that it is the chairman's intent that these funds are intended to be above and beyond the current amounts provided for ombudsman activities; that they are meant to supplement, not replace, current funds?

Mr. HARKIN. The Senator from Washington is correct in his understanding. It is our intention to expand support for the State's ombudsman programs, not to provide new funds merely to supplant existing levels of support. I know that in his capacity as chairman of the Subcommittee on Aging, he shares my commitment to ensuring that this important program be able to respond to the needs of the institutionalized elderly.

Mr. ADAMS. Mr. President, the Senator is to be commended for providing first time funding for the elder abuse prevention program that was established in the 1987 OAA amendments. This enables us to move beyond the rhetoric of addressing the broad spectrum of neglectful and abusive practices against the elderly. This level of funding is an important step and I know he shares my commitment to increase this support over time.

It is my understanding that the committee's intent is to give the States maximum flexibility in the disbursement of these funds so as to assure the most effective efforts to combat elder abuse with limited funds. The States should be permitted to use these funds in the ways they believe will have the greatest impact. Is that the Chairman's understanding?

Mr. HARKIN. I certainly agree with the Senator's comment to leave it to the State's discretion to expend these funds for the most effective elder abuse prevention efforts. For example, it may make sense in one State to award funds within the State on a competitive basis for the most creative proposals; in another State it may be desirable to develop statewide initiatives; and in another, it may be advantageous to distribute it to all area agencies on aging.

Mr. ADAMS. Finally, Mr. President, I seek clarification regarding the relationship between elder abuse funding and the ombudsman program. This program is the one part of the OAA that currently responds to complaints of abuse—in nursing homes. Unfortunately, it has only scratched the surface in board and care homes. As numerous congressional hearings have documented, more abuse than we care to imagine occurs in these facilities. Am I correct in my understanding that it is the committee's intent that some portion of the appropriation for elder abuse prevention be coordinated with the State's ombudsman program?

Mr. HARKIN. I would like to thank the Senator from Washington for raising this important point. He is correct in his understanding. Such coordination, including funding, should improve the ability of ombudsmen to respond to abusive incidents in board and care homes and to coordinate their responses with appropriate State and local officials.

Mr. ADAMS. I would like to thank the chairman for his help in clarifying these points. This is an important bill. I know that the Nation's State and area agencies on aging, the thousands of local service providers, and the millions of older Americans they serve, recognize his efforts on their behalf.

Mr. SPECTER. Mr. President, I wonder if I could engage my colleague, the chairman of the Labor-HHS-Education Appropriations Subcommittee, on an issue of extreme importance regarding a proposed rule affecting clock hour-credit hour conversion.

Mr. HARKIN. I would be more than happy to discuss this issue with my friend from Pennsylvania.

Mr. SPECTER. On October 1, 1990, the Department of Education published in the Federal Register a proposed rule establishing a regulatory formula for the calculation of credit hours by undergraduate vocational training programs. Almost without exception, these proposed rules, if finalized in their present form, will compel every privately owned career school in America to change the method of computing student credit for class work completed from credit hours to clock hours. The Secretary's Notice of Proposed Rulemaking indicates his intention to permit only a 30-day comment period—which closes on October 31, 1990. I am concerned both about the potential impact of this rule on postsecondary educational institutions such as the Art Institutes of Pittsburgh and Philadelphia, as well as South Hills Business School in State College, PA, and the Department's apparent haste to finalize a rule of such far-reaching importance.

Mr. HARKIN. Although I have not had the chance to review the proposed rule in detail, I share the Senator from Pennsylvania's concern about the very brief opportunity provided by the Secretary for the higher education community to comment on these important regulations. As the Senator knows, I have been one who questions some of the abuse and fraud practiced by unscrupulous school owners. However, there are many in the proprietary sector who operate high quality schools.

Mr. SPECTER. I hope the chairman will join me in urging the Secretary to extend the comment period until November 30, 1990, and provide the higher education community a real opportunity to engage the Department in a meaningful way in the rulemaking process. If the Department is not willing to provide additional time, this is one Senator who will pursue other legislative alternatives to limit the Department's ability to drive honest and legitimate schoolowners out of private career education.

Mr. HARKIN. I agree with the Senator.

Mr. LAUTENBERG. Mr. President, I rise in support of the Labor, Health and Human Services, Education appropriations bill for fiscal year 1991. I commend the subcommittee chairman for his efforts in putting together this bill. Many worthy programs compete for limited funds in this appropriations bill, and subcommittee chairman had to make some very difficult choices in crafting this bill.

I appreciate the willingness of the subcommittee chairman to include funding for a number of programs I requested. The bill includes $5.5 million for a Model Law Center for Social Justice at Seton Hall University in Newark, NJ, as authorized in Public Law 101-162. The center will serve as a national model of clinical legal education, and will have specialized clinics to serve the homeless, disabled, elderly, and Hispanic populations. In addition to developing innovative teaching strategies, curriculum, and educational materials, the law center will help educate and train students for work in the public interest.

The bill includes $7.5 million for the model community education employment centers program authorized in the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. I secured the authorization for this new program, and

am pleased that this appropriations bill includes funds for no more than five model educational centers designed to assist low-income students in rural and urban areas in overcoming barriers to education and securing employment. I am also pleased that the committee report which accompanies the bill encourages the Department of Education to test the success of the model program in an urban school district in New Jersey.

The bill includes $5.25 million for computer-based educational construction programs through the Secretary's Fund For Innovation in Education. I secured the authorization for this program in 1988 and am pleased that the bill would provide funds for the program for fiscal year 1991 as it did in fiscal years 1989 and 1990. The computer education program provides funds for projects that expand and strengthen computer education resources available in elementary and secondary schools. It is designed to increase opportunities for our young people to receive hands-on experience with computers and technology.

I am pleased that this bill includes $8 million for lead screening, prevention, and outreach programs through the Centers For Disease Control. In line with language from the fiscal year 1990 appropriations bill which I requested, New Jersey has received a grant from the CDC for its lead poisoning program. I am pleased that the report accompanying the fiscal year 1991 appropriations bill highlights the problem of lead poisoning in New Jersey and am hopeful that New Jersey will receive additional funds in fiscal year 1992 to build on its program designed to combat this terrible health problem.

I am also pleased that the bill provides $5 million for mental health prevention services demonstrations and sets aside at least $1 million for projects aimed at reducing the incidence of teenage suicide. I believe that the Federal Government needs to do more to combat the tragedy of youth suicide. That is why I secured an authorization for youth suicide prevention demonstration programs, and it is why I have pursued a set-aside for these demonstration projects for 2 years. In line with the authorization for youth suicide prevention and outreach programs, I hope and expect that ADMHA will use this $1 million to provide resources to community organizations that are working to prevent teenage suicide.

Mr. President, among the more difficult issues in this bill has been providing funding for the Ryan White Aids Care Act, which is authorized at $880 million in fiscal year 1991. I was an original cosponsor of this law, which was approved in the Senate by an overwhelming vote of 95 to 4.

The law establishes a program for emergency relief for hospitals and community health centers in the areas hardest hit by the AIDS epidemic. It also assists all States in developing long-term, cost efficient programs for people and families with AIDS. Two urban areas in my State—Hudson County and Newark—qualify for emergency relief under the law.

There is a tremendous amount of interest in providing funds for the new programs in this law. Newspapers nationwide have editorialized in support of funding. I have received letters from mayors and hospitals and community organizations in support of funding for the programs in the Ryan White AIDS Care Act. I will ask unanimous consent that copies of newspaper editorials and letters in support of funding be included in the RECORD.

In light of the strong support for the programs in this bill, I was disappointed that the Labor-HHS Appropriations Subcommittee recommended $600 million in funding in fiscal year 1991 for programs authorized in the AIDS Care bill, but stipulated that $490 million for newly authorized programs could not actually be spent until October 1, 1991, the first day of the 1992 fiscal year. Under the subcommittee-approved version of the bill, $110 million would have been available this year to support existing programs. No funds for the new programs in the law would have been provided.

In an effort to provide funding for new programs in the law in fiscal year 1991, I along with Senators ADAMS and D'AMATO offered an amendment when the full Senate Appropriations Committee considered this bill. Our amendment would have provided about $448 million for critically needed AIDS emergency relief and treatment programs and State AIDS programs in fiscal year 1991. It also would have deferred $490 million for States and selected urban areas until October 1, 1991. Unfortunately, the amendment was defeated in the committee on a voice vote.

Although our amendment was not approved, an additional $49 million was provided during the full committee consideration of the bill for emergency AIDS relief to selected urban areas; $110 million would still be available for State programs, and $441 million would still be deferred until October 1, 1991. I appreciate the assistance of the chairman of the Appropriations Committee in addressing this funding issue.

I believe that $49 million is an important step. It will provide some relief to urban areas in New Jersey and nationwide. Under the committee-approved plan, for example, the Newark area would receive about $2.2 million in emergency AIDS funding and Hudson County would get about $1 million within 90 days of enactment. They need this money quickly. So do other hard-hit areas nationwide.

But they need more. The House-approved version of this appropriations bill fenced funds for the Ryan White AIDS Care Act and a number of other programs that were not yet authorized when the appropriations bill was considered. I hope that during the conference on this bill additional funds will be provided to help health care systems cope with the AIDS epidemic. I intend to keep pressing this issue with the conferees on the bill.

The AIDS epidemic will only get worse. An estimated 1 million Americans are already infected with the HIV virus. And the number of actual AIDS cases is expected to triple over the next 2 years, reaching the one-half million mark by 1993. In rural America, the rate of AIDS is increasing seven times faster than in our urban centers. The Centers for Disease Control predict that AIDS will become the fifth leading cause of death for women aged 15 to 44 next year. AIDS is already among the 10 leading causes of death for children between the ages of 1 and 4.

We must address the ravages of this disease. We must provide care to patients, help to hospitals, nurses and doctors, and take steps to prevent its further spread by bringing infected people into the health care system. I sincerely hope that during the conference on this appropriations bill additional funding will be provided for the new programs in the Ryan White AIDS Care Act in fiscal year 1991.

I ask unanimous consent that the material to which I earlier referred be printed in the RECORD.

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

[From the New York Times, Sept. 14, 1990]

DON'T DELAY ON AIDS RELIEF

The AIDS emergency relief bill that moved so swiftly through the Senate this summer authorized substantial funds for areas where the bulk of the nation's AIDS victims reside. But the Congressional subcommittee appropriated no funds for new programs this year, replacing the bill's earlier message of hope with one of neglect.

Unless the Senate Appropriations Committee shows courage and reverses the subcommittee's decision, that callous message will be the last one many AIDS victims hear.

The bill that passed this summer, introduced by Senators Edward Kennedy of Massachusetts and Orrin Hatch of Utah, authorized more than $700 million to fight the epidemic. Originally it called for spending $300 million in the next two years to relieve urban hospitals that treat thousands of indigent AIDS patients at a cost of $150,000 per case. The bill also called for $300 million for areas that develop comprehensive case management plans. Such plans might head off the epidemic before it threatens entire communities.

The Senate subcommittee fell far short of honoring Congress's commitment. It appropriated only $110 million to continue inadequate existing programs while deferring almost $500 million for new programs for an entire year.

One year might not seem that long to Washington budget makers. But it may represent a lifetime to many AIDS patients. It's also unconscionable to ask strained hospital staffs to struggle along on inadquate resources for another year. Many patients could be tended to more effectively and cheaply through home case services, hospices and specially designed apartment complexes that the bill might make possible.

Some lawmakers cite procedural difficulties—that the bill was passed too late in the year to be properly funded, that it would be too difficult to cut funds from other programs. But this bill was designed as a form of disaster relief, and the disaster is upon us. Perhaps as many as a million Americans are infected. If only a fraction of that number were trapped in the rubble of an earthquake, Congress would act without delay. The AIDS disaster demands a response now, not a year from now.

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[From the New York Newsday, Sept. 14, 1990]

BAIT AND SWITCH ON CAPITOL HILL

A U.S. Senate subcommittee delivered a terrible blow to New York and other cities this week when it scuttled almost all new money for AIDS disaster relief New York had expected to receive $50.5 million within the next 90 days or so. Tens of millions more were to follow that. Now the city can only cross its fingers and hope that the full Appropriations Committee repairs some of the damage when it considers the matter today.

How serious is the cut? It's devastating. It's not unusual now for AIDS sufferers to wait 36 hours before they can be moved from hospital emergency rooms to inpatient beds. While 11,000 people are diagnosed with full-blown AIDS. 125,000 to 235,000 are believed to be infected with the AIDS virus—and the city's health facilities are already overwhelmed.

"The impact of not getting that money—it means lives," says Joanna Omi, a city budget analyst. The city had planned to use the relief money in part for case management and to recruit doctors, nurses and support staff. By bolstering the care available outside hospital settings, the city was hoping to reduce the unmanageable demand for its hospital beds. A reduced competition for beds would have benefitted not just people with AIDS, but all patients who need hospitalization.

By focusing, too, on early testing and drugs that slow the onslaught of AIDS, the disaster relief bill would have saved scarce public dollars over time by keeping more people healthier longer. The Appropriations Committee must restore as much of the original $875-million measure as possible.

Yet for all the justified gloom on the AIDS front, there is one tiny glimmer of good news. To find it, we must turn from Washington to Brooklyn. There, as the new school year got underway, 11-year-old Joey DiPaolo revealed that he has the AIDS virus but would be going to school. So far, few people seem to be panicking.

Five years ago, when the city decided to let a second-grader with AIDS attend school in Queens, a boycott kept up 9,000 kids out of classes the first day. Today may chalk up one small victory for decency.

[From the Newark Star-Ledger, Sept. 25, 1990]

RESTORE AIDS FUNDING

Too often, Congress enacts legislation, the President signs it and no money is appropriated to fund the law. That appears to be happening again, but this time it involves a measure far too important to be left again on the wayside while Congress does its usual sleight-of-hand routine.

Earlier this year, it seemed federal legislators would responsibly face the reality that the AIDS epidemic has reached such major proportions in many areas that federal assistance to states and cities heavily affected by the disease was warranted.

The Senate overwhelmingly approved more than $700 million for the 1991 fiscal year for programs to care for AIDS patients and for other services and support programs. Under the formula, New Jersey would receive about $20 million and Newark would get more than $6 million.

But suddenly things have changed. A Senate subcommittee recently voted to appropriate no new funds this year for AIDS programs, meaning the 16 hardest hit cities will have to wait yet another year for federal help in dealing with a most pressing health problem—unless the full Senate Appropriations Committee votes otherwise.

In voting to approve the package, Congress acknowledged that the federal government needed to play a much larger role in providing health care for thousands of Americans living under the specter of the deadly AIDS virus. It was a commitment that was both welcome and overdue.

The latest development does not bode well for cities with high AIDS rates, such as Newark and Jersey City, which would see their already overburdened system of care collapse under the weight of the epidemic. The bill was designed to provide "disaster" relief, and it is imperative that the Senate Appropriations Committee, which meets today, understand the pressing nature of the AIDS problem.

If the subcommittee recommendation is allowed to stand, nearly $500 million for new programs to tackle the enormous AIDS health problem will be deferred for another year. A year for those afflicted with the deadly HIV virus can represent a lifetime. It would be unconscionable if Congress reneged on its commitment and failed to fully fund the AIDS relief bill.

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[From the Woodbridge (NJ) News Tribune, Sept. 24, 1990]

AIDS BILL VITAL TO URBAN HEALTH CARE

A bill designed to help American cities recover from the devastating effects of AIDS on local health-care systems appears headed for defeat, despite its overwhelming support this summer in the House and Senate, and its signing by President Bush.

A Senate appropriations subcommittee decided this month not to fund the full $700 million bill, perhaps dashing hopes for a new government commitment to attempt to end AIDS suffering, and help the cities hardest hit by the epidemic.

If rescued, the Ryan White CARE Act of 1990 would provide emergency relief funds to 16 U.S. cities with the highest number of AIDS cases, among them Newark, which was to receive $6.3 million; Jersey City, $2.8 million; and New York City, $51.3 million.

About $300 million of the total appropriation would have been spent as emergency relief aid for urban hospitals treating thousands of AIDS patients at exorbitant public expense. Another $300 million would go to hospitals that develop case management plans for more efficient handling of AIDS cases.

The subcommittee's refusal to fully fund the bill sent shock waves among AIDS researchers and health-care experts, as well as urban mayors.

Mathilde Krim, founder of the American Foundation for AIDS Research, said the bill is not a "handout . . . for people with a particular disease." Instead, she said, the act represents an overdue government response to the worsening AIDS health-care crisis.

J. Thomas Cochran, executive director of the U.S. Conference of Mayors, cited nearly a 100-fold increase in the number of reported AIDS cases since 1983.

San Francisco Mayor Art Agnos and New York Mayor David Dinkins, in a joint op-ed piece published by The San Francisco Chronicle, drew a disturbing comparison between global outrage over Iraqi President Saddam Hussein's invasion of Kuwait, and the "glacial U.S. response" to an AIDS epidemic that has already killed more than 85,000 Americans. Agnos and Dinkins represent the two American cities most besieged by the AIDS epidemic.

Meanwhile, President Bush said he is "heartbroken" by a failure to fund the bill, but unconvinced that spending more money will weaken the AIDS epidemic.

Postponing funding of the AIDS bill not only would guarantee the suffering and death of AIDS patients, particularly the poor, it also would sustain a steady deterioration of the quality of urban health care, an issue that affects all people in need of health care.

The disease is spreading. State health officials report a steady increase of AIDS among heterosexuals, mostly women, infected by sexual partners. Regardless of whom the disease kills, the knowledge that people are dying by the thousand should be enough to prompt the government to act.

We call upon Sen. Frank Lautenberg, D.N.J., a member of the full Senate Appropriations Committee and an avid supporter of the AIDS bill, to be among those fighting to rescue this vital act this week.

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[From the Hackensack (NJ) Record, Sept. 26, 1990]

A NEED FOR AIDS MONEY

The cost of AIDS can be counted in two ways. There's the human cost, in suffering and shattered lives. And there is the dollars-and-cents cost, which hits especially hard in Newark, Jersey City, New York, and other urban areas that find already overburdened hospitals struggling to cope with a full-scale epidemic. Congress voted last May to send special aid to these cities, but never followed through with the money. Sen. Frank Lautenberg deserves support in his efforts to push through a scaled-down version of the emergency rescue proposal.

The package of about $190 million sought by Mr. Lautenberg, with support from Sen. Alfonse D'Amato, R.-N.Y., and other senators, doesn't go for anything exotic or untried. It is an emergency package pure and simple, to help facilities such as Children's Hospital and University Hospital, both in Newark, that are severely strained by the rising number of AIDS cases.

The money could be spent in two ways. It could be given directly to hospitals, to help them pay doctors and nurses and meet other costs of caring for AIDS patients without cutting back on other areas of care.

Or it could be used to fund less expensive alternative forms of care for AIDS patients who aren't sick enough to be in a hospital setting. Money could be used to pay for home health-care workers, for hospices, or for small, specially designed apartment complexes to house seriously ill patients.

Mr. Lautenberg's bill would spend about $200 million in 16 metropolitan areas across the country that have been hard hit by AIDS. Newark would receive $6.3 million, and Jersey City, $2.8 million. It's hard to dispute that the money is needed. In the last year alone, the number of AIDS cases in Newark has increased by 33 percent, to 3,885. In Jersey City, the number has increased 23 percent, to 1,537.

Money is obviously tight in Washington, but Mr. Lautenberg has provided a reasonable funding source. He would make small cuts, of less than 1 percent, in all programs administered by the Department of Health and Human Services that are scheduled to receive an increase in the coming year. An aide to Mr. Lautenberg says that the measures faces strong opposition, chiefly because many states don't have an AIDS problem. Mr. Lautenberg's measure would direct money to metropolitan areas in only nine states, plus the District of Columbia and San Juan, Puerto Rico.

After a slow start, the federal government has done a fairly good job of funding research into AIDS. It has made some strides in AIDS education. But the third step, helping to meet the costs of treatment, has been neglected. The problem is too expensive to be borne by local communities alone. AIDS is a national emergency. It demands a national response.

A MINISTER'S DENIAL

A priest giving a Christmas sermon a couple of years ago in Closter asked this question: If Jesus were born today, where do you think it would be? The answer, the priest said, in a modern-day comparison to the inn and the manger, is that he'd be born to a stranded family in a garage behind a motel. He would come, as before, to the poor and the outcast.

That sermon came to mind upon hearing that a minister in Milwaukee recently refused to baptize a 13-month-old baby girl who is dying of AIDS. No details were given on the minister's rationale. Was there fear of contagion? Maybe it was a moral stance. The baby's mother has AIDS as well. Maybe the minister just didn't want to get involved.

Whatever the reason, in denying God's blessing to a dying child, the Milwaukee minister missed the central point of his life's work. Jesus turned no one away. Shunning the AIDS baby was most un-Christian. There's no doubt about the well-being of her soul, baptized or not. It's the soul of the minister that bears praying for.

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MANATOS & MANATOS,
*Washington, DC, September 13, 1990.*

Hon. FRANK LAUTENBERG,
*U.S. Senate,*
*Washington, DC.*

DEAR FRANK: On behalf of the city of San Francisco, I urge your support of efforts in the full Appropriations Committee to provide the critically needed emergency relief for those metropolitan areas hardest hit by the AIDS epidemic. When you vote in the coming days on the appropriations bill, please support any efforts to provide FY'91 funding for Title I of the Ryan White Comprehensive AIDS resources Emergency Act.

I know that the budget is extremely tight and choices are difficult, but I am sure you would agree that if we were to poll 1,000 Americans in your state and ask them the question: "If you could save the lives of 1,000 of our boys over in the Middle East, with the expenditure of just 2 percent over what we have already financially committed, would you agree to that 2 percent increase?" nearly all would give a resounding yes. Help prolong and save the lives of those thousands of Americans who are dying from AIDS, vote to provide FY'91 funding of Title I of the AIDS CARE Bill.

Sincerely,

ANDREW E. MANATOS.

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BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
*Los Angeles, CA, September 19, 1990.*

Hon. FRANK B. LAUTENBERG,
*U.S. Senate, Washington, DC.*

DEAR SENATOR LAUTENBERG: Last summer the Congress overwhelmingly approved the enactment of the Ryan White Comprehensive AIDS Resources Emergency Act authorizing $875 million in emergency relief for AIDS, especially to assist areas most affected by the epidemic. It is my understanding that the Senate Appropriations Committee will very soon be considering the Labor Health and Human Services, Education and Related Agencies Appropriations Bill. I urge your support to include funds in this bill for the emergency AIDS relief program.

AIDS is a major public health problem in Los Angeles County. There are more than 10,000 persons diagnosed with AIDS in the County, which ranks second in the nation in reported AIDS cases. This AIDS epidemic in Los Angeles County is growing at an alarming rate that is placing greater demands on our already strained County budget.

Thank you very much for your efforts on this public health issue of urgency and importance to Los Angeles County.

Sincerely,

EDMUND D. EDELMAN,
*Supervisor, Third District.*

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NATIONAL PUERTO RICAN
COALITION, INC.,
*September 21, 1990.*

Hon. FRANK LAUTENBERG,
*U.S. Senate, Washington, DC.*

DEAR SENATOR LAUTENBERG: The National Puerto Rican Coalition (NPRC) strongly urges you to support the Ryan White Comprehensive AIDS Resources Emergency Act (CARE) Act of 1990 by allocating *at least* $390 million in *new funding* for AIDS. As president of NPRC, which represents over 100 Puerto Rican organizations nationwide, I would like you to be aware that this bill is extremely important to Puerto Ricans in the U.S. mainland and on the island of Puerto Rico.

Among the 16 cities targeted by Title I of the CARE Act are six mainland cities with large concentrations of Puerto Ricans—New York, Philadelphia, Jersey City, Chicago, Newark and Boston (as well as San Juan, Puerto Rico). Puerto Ricans in these cities have been disproportionately affected by the AIDS epidemic.

In Philadelphia, for example, the disease is spreading more rapidly among Puerto Ricans than among any other group except the gay population. In New York, the Health Department predicts that by 1993, the number of Hispanics (mostly Puerto Ricans) will be more than *twice* the number of cases recorded in 1988. The Massachusetts Department of Public Health found that in 1989, Hispanics (again, mostly Puerto Ricans) were *seven times* more likely than Whites to contract AIDS.

The AIDS Emerency Act will provide funds to hospitals, clinics and community centers to care for Puerto Ricans and others with AIDS. It will provide badly needed testing and counseling for people worried about being infected with AIDS and "Early Intervention" drugs to slow down the onset of AIDS in those already infected with HIV—the AIDS virus.

It is extremely unfortunate that the Senate Appropriations Subcommittee on Labor and Health and Human Services provided no new funding for AIDS for Fiscal Year 1991, preferring to allocate the funds late *next year*. It makes no sense to wait a year to deal with a major health emergency affecting people *now*.

For several months, the National Puerto Rican Coalition has been mobilizing grassroots support in the Puerto Rican community for the CARE bill. Attached here is one of the many letters NPRC member organizations have written on this issue, and two handwritten letters from Puerto Ricans who have never before written letters to Congress.

NPRC, our member organizations and Puerto Ricans throughout the United States are looking to you for help. Please do all you can to reverse the Labor-HHS recommendation and support new funding for the CARE bill.

Sincerely,

LOUIS NUNEZ,
*President.*

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UNITAS, INC.,
*Lowell, MA, September 18, 1990.*

Hon. TOM HARKIN,
*U.S. Senate, Washington, DC.*

DEAR SENATOR HARKIN: Puerto Rico is a great Island and their people are very warm to their visitors.

AIDS is a worldwide problem and Puerto Rico is among the most affected in this terrible terminal disease. Also Puerto Rican communities along the with continental United States are suffering from this virus.

The government of the United States spends a great deal of money for the Nations Security-Defense system.

Between the U.S. citizens that served during the war, Puerto Ricans were the biggest group not only to serve but also die for the sake of this nation.

It is time that this nation spend money wisely on those citizens that make this nation strong.

Without people, a nation cannot fight over any cause. Without people, there is no nation.

The Puerto Rican community is urging $750 million in funding for the AIDS Emergency Act in Fiscal Year 1991.

On behalf of Unitas, Inc. and myself as Executive Director of this organization that helps Hispanics, I urge you to consider favorable the provision of this utmost important funds.

Very truly yours,

DALIA CALVO,
*Executive Director.*

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OFFICE OF THE MAYOR,
*San Juan, PR, September 14, 1990.*

Hon. FRANK LAUTENBERG,
*U.S. Senate, Washington, DC.*

DEAR SENATOR LAUTENBERG: As you know, last month Congress passed the Ryan White CARE Act by an overwhelming margin to respond to the AIDS epidemic. An impor-

tant facet of that bill, Title I, would distribute emergency relief funds to those cities-sixteen with the greatest need.

San Juan is one of the cities with the highest incidence of AIDS in the United States, and is in dire need of Federal assistance to help cope with the AIDS epidemic. It is projected that the number of persons diagnosed with AIDS or HIV-related illnesses in San Juan will double every 18 months.

This Wednesday, the subcommittee with responsibility for appropriating funds to implement the CARE Act essentially decided to ignore this public health emergency by failing to appropriate any funds for this program for this coming fiscal year. Unfortunately, the AIDS virus will not remain dormant for a year to accommodate the misplaced funding priorities of Congress—failure to allocate funds for this year will result in further spread of the disease and a worsening of the epidemic.

I urge you to support any initiatives to provide funding for this essential AIDS relief effort when the full committee meets to consider this matter.

Sincerely,

HECTOR LUIS ACEVEDO,
*Mayor, City of San Juan.*

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CITY OF SUFFOLK,
*Suffolk, VA, September 5, 1990.*

Hon. FRANK R. LAUTENBERG,
*Senate Appropriations Committee, Washington, DC.*

DEAR SENATOR LAUTENBERG: The City of Suffolk, Virginia is aware that on August 18, 1990, President Bush signed the "Ryan White Comprehesive AIDS Resources Emergency Act" which provides funding to cities for services and care of AIDS afflicted persons.

This funding is desperately needed by cities to help ease the funding burden that had resulted from the growing number of AIDS related cases. As you know, the number of AIDS victims continues to rise and this has resulted in an increasing impact on the amount of funds available for our local health departments. It is essential that more funds become available to help offset the costs that this tragic disease has come to bear on local governments.

Upon the convening of the Senate, the Appropriations Committee will consider this matter. Please make every effort to support the "Ryan White Comprehensive AIDS Resources Emergency Act" and ensure that cities have the necessary funds to care for those afflicted with AIDS and to help prevent the further spread of this devastating disease.

Thank you for your consideration of this matter. Should you have any questions or desire further information, please do not hesitate to contact me.

Sincerely,

JOHN L. ROWE, Jr.,
*City Manager.*

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OFFICE OF THE MAYOR,
CITY OF ST. PAUL,
*St. Paul, MN, August 31, 1990.*

Hon. FRANK R. LAUTENBERG,
*Senate Appropriations Committee, Washington, DC.*

DEAR SENATOR LAUTENBERG: On August 18, President Bush signed the Ryan White Comprehensive AIDS Resources Emergency Act. Provisions of the Act include direct funding for the 16 cities with the highest number of AIDS cases, and funds for other cities made available through the state formula grants for services and care. This piece of legislation is extremely important to our nation's cities and to those citizens who suffer from AIDS.

When the House passed this measure, they did not have an opportunity to include funding for the programs authorized by the legislation for the coming 1991 fiscal year, which begins October 1, 1990. Your committee will soon hear this issue.

I am writing to you at this time to urge you to appropriate full funding of the $900 million Act for Fiscal Year 1991. Without appropriations in the coming year, the valuable assistance contained in the Ryan White CARE Act will not become a reality.

Sincerely,

JAMES SCHEIBEL,
*Mayor.*

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OFFICE OF THE MAYOR AND CITY COUNCIL, CITY OF YUMA,
*Yuma, AZ, August 28, 1990.*

Hon. FRANK R. LAUTENBERG,
*Senate Appropriations Committee, Washington, DC.*

DEAR SENATOR LAUTENBERG: I am writing to express the City of Yuma's support for the "Ryan White Comprehensive AIDS Resources Emergency Act", and to encourage you to ensure that funding is provided for this important legislation.

I support the funding of this legislation for several reason. First, it obtains federal aid for cities in dealing with the AIDS epidemic. As of now, the cities are dealing with the problem the best they can which in some cases is not at all.

Second, the Bill would ensure that cities have the funds necessary to care for those afflicted with AIDS and to help, through education and counseling, prevent the further spread of the disease.

For these reasons, I am asking that fundings be provided for the CARE Act. I believe that this funding is extremely important to the future and wellbeing of the cities constituents.

Thank you for considering our comments on this Act.

Sincerely,

ROBERT H. TIPPETT,
*Mayor, City of Yuma.*

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CITY OF BOSTON, MA,
OFFICE OF THE MAYOR,
*September 6, 1990.*

Hon. FRANK R. LAUTENBERG,
*U.S. Senate, Hart Office Building, Washington, DC.*

DEAR SENATOR LAUTENBERG: I am writing to urge your support for full funding of the recently authorized "Ryan White Comprehensive AIDS Resources Emergency Act." As mayor of one of the cities which would receive direct funding under the act, I know that this funding is desperately needed for our hospitals and health centers which are struggling to cope with the impact of this deadly disease.

Funds available to cities under Title I of this act will be used for outpatient care, support services and inpatient case management—areas of service that must be expanded quickly. Our city has made a major commitment to AIDS prevention and treatment programs in recent years, however, with our state government fiscally strapped, a national commitment to assist in the care of people with AIDS is essential.

While I recognize that the federal government has its own fiscal crisis to resolve, I believe that our top priorities for federal funding must involve basic human needs. In that context, providing humane care to persons with AIDS should be included when your appropriations decisions are made.

Thank you for your consideration on this matter.

Sincerely,

RAYMOND L. FLYNN,
*Vice President, U.S. Conference of Mayors.*

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OFFICE OF THE MAYOR,
*September 11, 1990.*

Hon. FRANK R. LAUTENBERG,
*Senate Appropriations Committee, Dirksen Building, Washington, DC.*

DEAR SENATOR LAUTENBERG: I am writing to encourage you to support full funding of the "Ryan White Comprehensive AIDS Resources Emergency Act," for fiscal year 1991. This $900 million act is important to assure cities that funds will be available to care for those afflicted with AIDS. The support of full funding will also help to prevent the further spread of the disease.

Many of our cities are faced with the growing AIDS epidemic and the only way to get a control is through funding for research and care. As Mayor, I consider it one of my duties to preserve the health and well-being of the constituents which I serve.

Again, your full support for the CARE Act is encouraged. Thank you for your consideration of this matter.

Sincerely,

MARTHA G. SCOTT,
*Mayor of Highland Park.*

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CITY OF TACOMA,
OFFICE OF THE MAYOR,
*September 7, 1990.*

Hon. FRANK R. LAUTENBERG,
*Senate Appropriations Committee, Washington, DC.*

DEAR SENATOR LAUTENBERG: On behalf of the City of Tacoma, Washington, I am writing to support funding for the "Ryan White Comprehensive AIDS Resources Emergency Act". Provisions of the Act include direct funding for the 16 cities with the highest number of AIDS cases, and funds for other cities made available through the state formula grants for services and care.

I understand that due to the timing of passage of the CARE Act, the U.S. House of Representatives did not have the opportunity to include funding for the programs authorized by the legislation for the coming 1991 fiscal year.

To ensure that cities have the funds necessary to care for those afflicted with AIDS and to help prevent the further spread of the disease, I urge full funding of the $900 million for Fiscal Year 1991. Without appropriations in the coming year, the valuable assistance contained in the Ryan White CARE Act will not become a reality for cities. The sooner these monies are available, the sooner cities can increase their fight against AIDS.

Sincerely,

KAREN L.R. VIALLE,
*Mayor.*

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OFFICE OF THE MAYOR,
*Flint, MI, September 10, 1990.*

Hon. FRANK LAUTENBERG,
*Senate Appropriations Committee, Dirksen Building, Washington, DC.*

DEAR SENATOR LAUTENBERG: August 18 marks an important date in the fight against AIDS. With the signing of the Ryan White CARE Act, a very important first hurdle to begin stemming the tide of the dreaded disease was overcome. The legislation is in place, providing a structure for assistance to those areas hardest hit. Now, the

next important step must be taken. Provisions must be made for full funding of the Ryan White CARE Act.

This is an issue which needs direct immediate attention. The health of our population affects all of us. We have the structure in place, let's put it to work, to help those most affected.

Thank you for your prompt consideration of this matter.

Sincerely,

MATTHEW S. COLLIER,
*Mayor.*

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OFFICE OF THE MAYOR,
*Vineland, NJ, August 29, 1990.*

Re Ryan White Comprehensive AIDS Resources Emergency Act.

HON. FRANK LAUTENBERG,
*Senate Appropriations Committee, Dirksen Building, Washington, DC.*

DEAR SENATOR LAUTENBERG: As Mayor of the City of Vineland and in behalf of the governing body of our City, I would encourage you to favorably support funding for the Ryan White Comprehensive AIDS Resource Emergency Act when this issue appears before the Senate Appropriations Committee.

Without appropriations in the coming year, the valuable assistance contained in this Act will not become a reality.

Thank you for your consideration in this matter.

Very truly yours,

HARRY CURLEY,
*Mayor.*

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IRVINGTON, NJ,
*August 28, 1990.*

Re Funding for the Ryan White Comprehensive AIDS Resources Emergency Act.

Hon. FRANK LAUTENBERG,
*Senate Appropriations Committee, Dirksen Building, Washington, DC.*

DEAR SENATOR: As you know, on August 18th, President Bush signed the Ryan White Comprehensive AIDS Resources Emergency Act, which was passed by overwhelming margins in both the Senate and the House.

The Ryan White CARE Act represents a strong Congressional intention to provide relief to the urban areas most affected by the AIDS crisis, and to provide states with the tools they need to combat this disease.

I urge your support in providing full funding of the $900 million Act for Fiscal Year 1991 * * * for this important legislation so vital for America's cities.

Very truly yours,

MICHAEL G. STEELE,
*Mayor.*

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OFFICE OF THE MAYOR,
CITY OF PLAINFIELD,
*Plainfield, NJ, August 29, 1990.*

Hon. FRANK R. LAUTENBERG,
*Senate Appropriations Committee, Dirksen Building, Washington, DC.*

DEAR SENATOR LAUTENBERG: It is my understanding that when the Senate returns from its August recess in early September, the Appropriations Committee will take up the issue of funding programs for the coming 1991 fiscal year, which starts October 1, 1990.

I am writing to urge you to vote for full funding of the Ryan White Comprehensive AIDS Resources Emergency Act signed by President Bush on August 18, 1990. We must ensure that cities have the funds necessary to care for those afflicted with AIDS and to help prevent the further spread of the disease.

Thanking you for your consideration, I am

Very truly yours,

HAROLD W. MITCHELL,
*Mayor.*

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JERSEY CITY MEDICAL CENTER,
*Jersey City, NJ, September 26, 1990.*

DEAR SENATOR: On behalf of Jersey City Medical Center, the major provider of AIDS health services in Hudson County, we encourage you to endorse the Title I Comprehensive AIDS Resources Emergency Act currently being considered by the Senate Appropriations Subcommittee on Labor, Health and Human Resources.

For cities and communities across the country, the current crush of AIDS and the staggering cost of care is already placing a tremendous strain on local public health systems and services. Jersey City has the second highest prevalence of AIDS in the nation and this funding is critical to our ability to continue to meet the needs of persons with AIDS as well as those at risk. And it is not just the large metropolitan hospitals that are facing financial chaos; the problem extends to hospitals in the south and midwest.

According to statistics from Centers for Disease Control (CDC), we may be entering the grimmest period of the AIDS crisis. Over the next two years, the nation's AIDS caseload will more than triple climbing from over 130 thousand cases today to almost a half million cases by 1993. Much of the increase will take place in rural America. Today, the rate of AIDS in rural communities is increasing seven times faster than in the nation's urban centers. In additon, with as many as one million Americans already infected with HIV, new infections continue to spread, particularly among heterosexuals, women and children. The CDC estimates that as many as two thousand HIV infected infants are born every year.

The C.A.R.E. Act calls for a substantial federal investment in HIV care and services, but if we choose not to make this investment now, the cost will only be much greater in the future. In an era of budget deficits and tight spending, the intent of the Act is not only to save lives, but also to hold down rapidly rising health care costs for AIDS. In 1990 the Federal Government will spend $160 billion on health care. Out of that total $1.6 billion or only 1 percent will go to AIDS, a problem which President Bush has called the nation's number one health problem.

Thank you for your time and consideration. Please call us if you have any questions or require further information.

Rev. JAMES F. REILLY,
*Chairman of the Board of Trustees.*
JONATHAN M. MOISCH,
Dr.P.H.,
*President and Chief Executive Officer.*

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CITIZENS COMMISSION ON AIDS
FOR NEW YORK CITY AND NORTHERN NEW JERSEY,
*New York, NY, August 28, 1990.*

Re Emergency Appropriations for AIDS.

Hon. FRANK LAUTENBERG,
*Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education, Washington, DC.*

DEAR SENATOR LAUTENBERG: As a result of overwhelming support by the Congress and by communities affected by the HIV/AIDS epidemic, the Kennedy-Hatch Comprehensive AIDS Resources Emergency (CARE) Act of 1990 was recently enacted. This bill prudently authorizes funds for emergency relief to metropolitan areas devastated by the HIV epidemic and for medical care, including early intervention services. Providing funding for this legislation is vital to our cities, health care facilities, and community-based organizations which have become overwhelmed by the spiraling numbers of people with HIV disease.

Your leadership on this issue is essential to communities in New York and New Jersey, and around the country, whose health care systems will collapse without new federal assistance. We strongly urge your support of a full appropriation of $882 million to fund critically needed health services.

Sincerely,

GARY L. STEIN, Esq.,
*Policy Director.*

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CITIZENS COMMISSION ON AIDS,
FOR NEW YORK CITY AND NORTHERN NEW JERSEY,
*New York, NY, September 27, 1990.*

Hon. FRANK R. LAUTENBERG,
*Member, Senate Appropriations Committee, Washington, DC.*

DEAR SENATOR LAUTENBERG: We wish to thank you for your support of partial funding of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act.

As you know, funding under the CARE Act is critical to the health care and social service delivery systems in the New Jersey/New York metropolitan area. Study after study of the region's hospitals show unprecedented increases in HIV infection among women and children. The region's care system is struggling to respond to its citizens' needs as waiting lists mount and ill people remain unserved.

This past summer, Congress recognized the health care emergency that has been intensifying in the America's larger metropolitan areas. The CARE bill was passed by an overwhelming majority to meet this public health disaster. It is unconscionable that the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies has deferred disaster relief funding for one year. It is beyond comprehension that funding can be found always for disasters such as hurricanes and earthquakes and for international assistance for countries affected by decreased oil production. This same concern must be shown for Americans who are critically ill as a result of HIV disease. It is time for Congress to demonstrate its compassion for the dying at home.

We strongly support your amendment to provide partial funding now for the CARE bill. Thank you again for sponsoring and advocating vital care and services for people with HIV disease.

Sincerely,

GARY L. STEIN, Esq.,
*Policy Director.*

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NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME,
*Washington. DC, September 18, 1990.*

Hon. ROBERT C. BYRD,
*Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The National Commission on AIDS is dismayed by the recommendation of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies not to provide immediate

funds to implement the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act of 1990. As you know, this measure was approved almost unanimously by both houses of Congress and signed by the President. By their actions, both the Congress and the President declared that the HIV epidemic is a disaster and should be treated as such. As the full Committee on Appropriations begins its deliberations, we urge, you to fully fund the CARE Act.

While we recognize the fiscal constraints existing today, we must state emphatically that any delay in providing emergency relief to areas hardest hit by the epidemic, as well as additional resources to all states, would greatly intensify the present disaster. During the past year, the Commission has heard repeatedly about the critical need for additional resources. Our travels across the country have provided us the opportunity to witness first-hand the serious inadequacies of our health care system—which is teetering on the brink of collapse. While the Ryan White CARE Act cannot fix all the challenges confronting the health care system, it can provide the immediate resources needed to help ensure that states and localities can provide care, treatment, and support services, now in very short supply.

When earthquakes and hurricanes strike, our nations's response is appropriately "Do whatever it takes!" Yet, when faced with a more slowly developing disaster, surely our response should not be to point to Gramm-Rudman-Hollings budget constraints. The federal budget, even under current pressures to reduce the deficit, must include the dollars needed to respond to the current disaster.

Again, we urge the Committee to support full funding of the Ryan White CARE Act of 1990.

Sincerely,

DAVID E. ROGERS, M.D.,
*Vice Chairman.*
JUNE E. OSBORN, M.D.,
*Chairman.*

NATIONAL ORGANIZATIONS RESPONDING TO AIDS,
*September 17, 1990.*

DEAR SENATOR: We are writing to you, a member of the Appropriations committee, with an urgent request to fund at least $390 million in new outlays for the Ryan White CARE Act in FY 1991.

The subcommittee's action last week was profoundly disappointing to millions of Americans with HIV infection and AIDS, and the many health, mental health and social service providers that assist them. When the Ryan White CARE bill passed the Senate in May by a vote of 95-4, a message of hope was sent across the nation. The promise of hope quickly turned to a message of callousness when the subcommittee completed action providing for NO additional funds in FY 1991 for the new provisions of the CARE act.

We understand the complex and difficult choices the subcommittee had to make, however it failed to recognize that the AIDS crisis has never secured adequate care resources from the federal government. The "disaster relief" authorized under the bill addressed the simple fact that without federal assistance hospitals will close and public health systems will collapse under the weight of the AIDS epidemic. Clearly "disaster assistance" can not wait for a full year without dire consequences for the sixteen cities affected. Similarly, an investment this year in the coordination of services in all communities and the provision of early intervention treatments for those who are HIV positive but not yet diagnosed with full blown AIDS will defer huge expenditures in indigent care funds, Medicaid programs and bankrupt health service providers.

In the context of AIDS we implore you to understand that one year is a literal lifetime for thousands of Americans.

With ongoing discussions regarding the budget summit still unresolved we firmly believe that additional resources can be found to assist in AIDS care this year. The generous budget authority allocated by the subcommittee is no more than an empty promise for cities and hospitals and people with AIDS who desperately need assistance NOW.

The AIDS disaster is real! Urgent assistance is needed this year. We respectfully request your attention to this matter in full committee deliberations.

Sincerely,

AIDS Action Council, AIDS National Interfaith Network, American Anthropological Association Task Force on AIDS, American Association for Counseling and Development, American Federation of Teachers, American Jewish Committee, American Medical Student Association, American Psychological Association, American Public Health Association, American Nurses' Association, Catholic Health Association, Center for Women Policy Studies, Committee for Children.

Human Rights Campaign Fund, Infectious Diseases Society of America, Legal Action Center, National Association of Community Health Centers Inc., National Association of Home Care, National Association of State Alcohol and Drug Abuse Directors, National Association of Home Care, National Association of Children's Hospitals & Related Institutions, National Council on La Raza, National Council for International Health, National Gay and Lesbian Task Force, National Minority AIDS Council, Parents and Friends of Lesbians and Gays, Rainbow Lobby, The American College Health Association, The National Coalition for the Homeless, Union of American Hebrew Congregations.

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NATIONAL GOVERNORS' ASSOCIATION
*Washington, DC, September 25, 1990.*

Hon. FRANK R. LAUTENBERG,
*Committee on Appropriations, U.S. Senate, Washington, DC.*

DEAR SENATOR LAUTENBERG: We write on behalf of the nation's Governors to express our concern about several provisions under your consideration in the Labor-HHS-Education appropriations bill. We appreciate the exceedingly difficult task we all face of balancing one priority against the other, but have serious concerns about plans to reduce or excluse funding for programs aimed at preventing dependency, or at helping those most in need.

AIDS: Ryan White Comprehensive AIDS Resource Emergency Act of 1990: The nation's Governors ardently support the programs authorized in the Ryan White Comprehensive AIDS Resources Emergency Act and strongly urge the Committee to appropriate the $880 million necessary to implement the AIDS grant programs. Full funding for the Ryan White Act is essential to address nationally the magnitude of the present and future AIDS epidemic. The Ryan White Act is the first and only legislation enacted since AIDS was diagnosed in 1982 to provide a comprehensive and coordinated national response to the AIDS epidemic. If funded, this long-over-due legislation would enable states to enhance existing AIDS initiatives and advance new efforts to meet the health-care needs of persons with HIV disease and guard against the further spread of AIDS. State and federal governments must work in partnership for the nation to effectively and efficiently address the AIDS crisis, and ultimately conquer this devastating disease. We hope you will support the Ryan White Act with full appropriations.

Child Support Enforcement: We are deeply concerned about a proposal included in the Subcommittee bill to reduce by $150 million child support enforcement federal incentive payments for states that do not meet a national average cost-benefit ratio. Under this plan up to 40 states and territories would face a reduction or total elimination in child support enforcement incentive funding, thereby limiting our ability to ensure that deserving children are provided with the support they are owed by an absent parent—an ironic and unfortunate development given the interest we all share in reducing welfare dependency. Further, the provision would have the effect of creating a disincentive to states to make necessary investments in our programs because we would increase the likelihood of our cost-benefit ratio dropping below the national average. We strongly urge you to delete this provision from the appropriations bill.

Foster Care: We urge you to eliminate a provision contained within the subcommittee bill that would place a cap on so-called administrative activities in the Title IV-E Foster Care Program, reducing funding to states by nearly $80 million in fiscal 1991. These administrative funds are, in fact, largely used by states to provide service-related activities required by the law; a cap would therefore directly affect programs for the country's most vulnerable children.

State Legalization Impact Assistance Grants (SLIAG): We are very concerned about a proposal in the subcommittee bill to reduce the $1 billion for SLIAG by $567 million in fiscal 1991, with a provision to repay this amount in fiscal 1992. SLIAG was created in 1986 to assist states in providing public assistance, public health and education services to newly leglized aliens, and was authorized as a four-year, $4 billion program with a seven year spending cycle. The proposed reduction in SLIAG funding would create a serious fiscal burden for state and local governments and would endanger the availability of services for newly legalized aliens as well as the general service population.

Unemployment Insurance: In addition, we urge you to support the Administration's recent request for an additional $90.7 million in unemployment insurance (UI) funds made necessary because of increased levels of unemployment facing many areas of the country. Specifically, the President now estimates that the unemployment rate for fiscal 1991 will be 5.6%, not 5.3% as he projected in January. Because his original budget request was based on the lower unemployment rate, without the additional $90.7 million the states will not have adequate funds to provide services to unemployed workers. In fact, when the scheduled postage increase takes effect in February, the shortfall will grow by another $10.9 million. As you remember from your efforts during the current fiscal year to provide

dire emergency funds for the UI Program when we ran short for the same reasons, inadequate funds will result in major disruptions in service to unemployed workers. Since we already know that a shortfall is inevitable, the Governors urge you to act now in support of the Secretary's request.

Further, the Governors wish to convey our support for the creation of a contingency reserve fund to automatically provide funds to operate our unemployment insurance programs when unemployment rates rise to a higher level than anticipated in the President's budget—the situation we have faced this year and next and 8 other times since 1975. Certainly this is a more effective and responsive way to guarantee continuation of services to workers than to each year be faced with the need to either revising appropriations requests or pursue a dire emergency supplemental.

We thank you for your consideration of our concerns.

Sincerely,

Gov. JOHN R. MCKERNAN, Jr.,
*Chair, Committee on Human Resources.*
Gov. JIM FLORIO,
*Vice-Chair, Committee on Human Resources.*

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DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE,
OFFICE OF DOMESTIC SOCIAL DEVELOPMENT,
*Washington, DC, September 20, 1990.*

DEAR SENATOR: The U.S. Catholic Conference, the public policy agency of the nation's Roman Catholic bishops urges you to add to the Labor/HHS bill significant new funding for Titles I, II, and IV of the Ryan White AIDS Resources Act to provide health and social services to persons with AIDS. However, the Senate Appropriations Committee must respond concretely to the tremendous and growing needs of communities facing the AIDS crisis. New funding for AIDS care should not come at the expense of increases provided by the Labor/HHS Subcommittee for programs for the poor and disadvantaged.

People with AIDS are among the most vulnerable in our society, and their communities desperately need federal aid to develop outpatient services, houring, transportation and other programs to help sick people live in dignity. Many dioceses and religious orders are deeply involved in serving people with AIDS and know first hand that the needs far outrun our resources.

In their November 1989 statement, the U.S. bishops urged that a continuum of care be developed to meet the health and human service needs of those who are HIV positive. Titles I, II, and IV of the AIDS Resources Act authorize funding for the kinds of services called for in the bishops' statement. Unfortunately, the Senate Labor/HHS Subcommittee has approved no new funding for the next fiscal year.

The AIDS epidemic won't wait until next fiscal year; neither should the Senate.

Sincerely,

SHARON M. DALY,
*Director.*

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NATIONAL ASSOCIATION OF COUNTIES,
*Washington, DC, September 13, 1990.*

Hon. FRANK R. LAUTENBERG,
*U.S. Senate, Washington, DC.*

DEAR SENATOR LAUTENBERG: As you prepare to mark up the 1991 Labor HHS Appropriations bill, the National Association of Counties would like to highlight health, human services and labor programs of importance to us.

RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT

Passed by overwhelming margins in the Senate and House of Representatives, the bill marks the first comprehensive approach to providing health services to individuals with HIV. In many states, countries bear the legal responsibility of providing health care to the indigent. AIDS has exacerbated problems faced by many county hospitals and the overall health system. Not only does the CARE Act assist those cities and urban counties hit hardest by the epidemic, it also helps all 50 states to develop consortia of health services in areas where the epidemic has not yet become acute. Federal funds accompanied by state matches would also provide testing, counseling and other preventive services.

We urge you to provide full funding, approximately $750 million, to help counties, cities and states to prevent the spread of AIDS and care for those already with the disease.

NATIONAL HEALTH SERVICE CORPS

NACo supports strongly the revitalization of the Naitonal Health Service Corps. Many rural counties and inner cities face severe shortages of health professionals. We urge you to appropriate $55 million for field placements, $75 million for loan repayment and scholarship programs and $10 million for the state loan repayment program.

IMPROVING JOB TRAINING SERVICES FOR THE MOST NEEDY

Legislation (S. 543) is pending that would expand and improve job training services for the most needy residents in local committees across the nation. Because these individuals (school dropouts, teen parents, individuals deficient in reading and math skills, etc.) have greater needs, it will cost considerably more to train them. A minimum of $400 million has been requested by the Senate Budget Committee to make improvements in the Job Training Partnership Act and NACo urges all members to support no less than this amount.

STATE LEGALIZATION IMPACT ASSISTANCE GRANT [SLIAG]

The Immigration Reform and Control Act of 1986 [IRCA] established a legalization program for certain undocumented aliens. Congress at the time recognized the financial impact of newly-legalized aliens on state and county programs and created the SLIAG program. Congress authorized and appropriated $4 billion in SLIAG funding, $1 billion per year for fiscal years 1988-1991. Congress also authorized expenditures of these funds over a period of seven years, until September 30, 1994.

For FY 90 Congress reduced SLIAG funding in the amount of $555 million. However, Congress also voted to restore this amount in FY 92, thus creating a fifth year of SLIAG funding.

We strongly urge the Senate to continue to fund SLIAG in the amount of $1 billion for FY 91 and to support the FY 92 pay back of the FY 90 reduction of $555 million. SLIAG funds are necessary not only to provide fiscal reimbursements to states and local governments but also to assure availability of needed services to populations at risk.

REFUGEE ACT OF 1980

Counties throughout the United States have been profoundly distressed at the erosion of federal support for refugee assistance programs. In recent years, the partnership created by the Refugee Act of 1980 between the federal government and the states and counties in the provision of domestic resettlement assistance has become increasingly one-sided, placing greater strain on the ability of the state and county governments to provide necessary service to our residents.

When the Refugee Act was first enacted, reimbursement for cash and medical expenses was provided for a period of 36 months. During FY 90, that level of assistance was reduced to four months. Increased funding is also necessary for social services, preventive health care, and targeted assistance.

We urge full funding for domestic resettlement for FY 91 that would be provided for a period of 36 months.

Thank you for your attention to our views.

Sincerely,

JOHN P. THOMAS,
*Executive Director.*

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AMERICAN HOSPITAL ASSOCIATION,
*Washington, DC, September 13, 1990.*

Hon. FRANK R. LAUTENBERG,
*U.S. Senate, Washington, DC.*

DEAR SENATOR LAUTENBERG: On behalf of the American Hospital Association (AHA) and its more than 5,000 institutional and 45,000 individual members, I am writing to strongly urge the Committee to approve full funding for "The Ryan White Comprehensive AIDS Resources Emergency Act of 1990," (P.L. 101-381) when you consider the appropriations bill for the Departments of Labor, Health and Human Services, Education, and Related Agencies.

As you are aware, P.L. 101-381 was enacted to provide emergency relief for those areas of our country which are hardest hit by the AIDS epidemic. It authorizes grant funds for preventive services for AIDS, including education and counseling, and for the development of cost-effective methods of treatment and support for people with AIDS. Hospitals and clinics serving high volumes of AIDS patients would be eligible to receive funds for preventive services as well as financial relief through the emergency disaster funds.

With the AIDS epidemic continuing to worsen, communities throughout the nation are being faced with the necessity of providing more and better care for AIDS patients. Communities which have been hardest hit by the AIDS epidemic require financial resources in addition to those which are generated locally to assist them to deliver the services to meet the needs of AIDS patients.

While we realize the fiscal constraints that the Committee faces, we believe that full funding for the Ryan White Comprehensive AIDS Resources Emergency Act is imperative in order to help local areas cope with the mounting costs of caring for AIDS patients. As such, the AHA vigorously supports this program and urges you and your colleagues to provide full funding for AIDS emergency relief when you "markup" the Labor/HHS/Education appropriations measure.

Sincerely,

PAUL C. RETTIG,
*Executive Vice President.*

SEPTEMBER 24, 1990.

Senator FRANK LAUTENBERG,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR: Earlier this year, we, the undersigned, directors of Washington-based offices of religious national bodies wrote to offer our support to you as you considered passage of The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, (P.L. 101-381). That legislation was overwhelmingly supported and passed the Senate and House with dramatic votes and was signed into law by President Bush. The time has now come to turn this legislative intent into action for the thousands of persons living with AIDS, and the estimated million plus Americans infected with HIV. We urge your support for full funding of this legislation by giving serious consideration for a minimum of $2.5 billion for AIDS related programs within the HHS Appropriations Bill for FY 1991 which includes $750 million for The Ryan White CARE Act.

The religious community in America has been responding to the AIDS epidemic in several ways since the crisis began. Interfaith AIDS ministries are one of the fastest growing responses in the private sector. These organizations, found in every state and nearly every city in our nation provide direct social services to people living with AIDS, pastoral care and education to their own faith community members as well as to the general public. The religious community has especially responded through its expertise in creating housing programs for those in need.

Many of our national religious bodies have established AIDS ministry offices at the national level to coordinate these efforts throughout our organizations and our cooperation with the AIDS National Interfaith Network we have estabished AIDS as a priority issue within our public policy agenda.

The religious bodies we represent will continue to do their part in response to our religious mandate to support people with AIDS, as the struggle against the AIDS epidemic calls us all to works of justice as well as compassion. We cannot, however, provide the millions of dollars that are needed to ensure this care. It is you, our members of Congress, who have the sole power to alleviate suffering and begin to provide adequate health care for thousands of Americans and their families struggling to cope with the reality of AIDS.

Rev. Kenneth T. South, Public Policy Office, AIDS National Interfaith Network; Mary Anderson Cooper, Acting Director, Washington Office, National Council of Churches; Rev. Jay Lintner, Director, Washington Office for Church in Society, United Church of Christ; Robert Alpern, Director, Washington Office, Unitarian Universalist Association; Dr. Kay S. Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Lisa Carr, Director, Washington Office, Catholic Charities; Mark Mengel, S.S.C., Director, Columban Fathers Justice and Peace Office; Rabbi Lynne Landsberg, Union of American Hebrew Congregations; Kathy Lyons, Health and Welfare Ministries of the General Board of Global Ministries, United Methodist Church; J.D. Hanson, Jane Hull Harvey, General Board of Church and Society, United Methodist Church; Rev. Donald J. Wilson, Associate Director, Rev. David L. Zuverink, Associate, Human Services Social Justice & Peacemaking Unit, Presbyterian Church (USA).

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ACTIONAIDS,
*Philadelphia, PA, September 13, 1990.*

Hon. FRANK LAUTENBERG,
*Dirksen Senate Office Building, Washington, DC.*

DEAR SENATOR LAUTENBERG: I am writing to ask for your immediate and vocal support in the Senate Appropriations Committee for full funding of the CARE Bill. Without immediate federal funding in our cities, particularly in a city as financially distressed as Philadelphia, many vital services for people with AIDS will simply not survive.

According to the Centers for Disease Control, more than 83,000 Americans are currently living with AIDS. Most of these citizens live in one of the 16 cities that would directly benefit from the $275 million originally designated for community AIDS service programs.

We cannot afford to wait another year for the federal government to increase its share of the responsibility for these citizens. For many people with AIDS, a year is a lifetime.

It is both irresponsible and cruel to refuse to fund an overwhelmingly approved bill that offers so much hope to so many people. On behalf of ActionAIDS, I urge you to commit the resources necessary to fight this devastating epidemic. The CARE Bill can literally save, prolong and improve hundreds of thousands of American lives.

It is literally within your power to see that it does. Thank you.

Sincerely,

ENNES LITTRELL,
*Executive Director.*

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HUDSON NEEDS AIDS FUNDING

Editorial writers are vain people, and it's tough for us to admit that anyone can say anything on a topic better than we can.

But a letter from three congressmen—including New Jersey Sen. Frank Lautenberg—explains more vividly than we could why this country needs emergency AIDS funding.

"When Hurricane Hugo struck South Carolina, we responded immediately with assistance," the letter says.

"When an earthquake rocked northern California, we responded immediately with assistance. When a drought threatened our farm states, we responded with assistance.

"The AIDS disaster is no different, and we must respond in the same way. We must provide relief immediately. We must provide resources now to help our state, cities, counties and health-care providers . . . combat the AIDS epidemic."

The letter was sent last week to a U.S. Senate subcommittee which is considering a plan to free up $190 million for AIDS disaster relief and care programs. About $2 million of that would be earmarked for Hudson County. The money would come by shaving other social programs by about 1 percent.

The plan is a stopgap measure, designed to last until 1991, when other AIDS funding will kick in. It's a good plan, and there should be no hesitation in adopting it. We need AIDS relief. We need it now.

Why anyone fails to grasp the urgency of the situation remains a mystery. The AIDS epidemic is nothing short of a disaster. It is killing hundreds of thousands of people, with hundreds of thousands more already infected and living a death sentence.

In Hudson County, the ravages of the disease are all too apparent. The county owns one of the highest incidence rates of AIDS in the nation. In the state, only Essex County loses more of its residents to AIDS than we do.

Still, the temptation for the public and the politicians to ignore the problem is great.

Sad to say, but because AIDS affects mostly homosexuals and intravenous drug users, many people don't care.

They don't care because, in their minds, they're part of the low-risk group.

They don't care because, as rampant as the disease is, it seems foreign to them. Something that happens to others.

They won't care until they get AIDS themselves. Then it will be too late.

Or they won't care until someone they know, and love, gets AIDS. The way the disease is spreading, that's likely to be too soon.

Sen. Lautenberg, Rep. Frank Guarini, County Executive Robert Janizsewski and every other politician involved in the effort to obtain emergency AIDS funding should be commended.

They have lobbied intensely over the past weeks. They've said what needs to be said.

We only hope that someone was listening.

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[From the Houston Chronicle, Sept. 22, 1990]

FUND AIDS CARE

A panel of the Senate Appropriations Committee has declined to fund the Ryan White CARE Act, which would provide 16 cities with federal money for emergency care of indigent AIDS patients. The panel's decision carries special impact for Houston and must be reversed by the full committee.

A disproportionate number of AIDS victims reside in Houston, and the number of cases is rising precipitously. The disease quickly bankrupts its victims long before it kills them, leaving local taxpayers responsible for funding public hospital care. If fully funded, the Ryan White CARE Act would give Houston $5.6 million next year that would go directly to care for indigent AIDS patients and more evenly share the burden for this national problem.

Many AIDS patients can be cared for more comfortably and more efficiently at home or in hospices. The CARE Act would help to provide such care, easing the suffering of the afflicted and the burden of Houston's generous but hard-pressed taxpayers.

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[From the Atlanta Constitution]

DISASTER RELIEF FOR AIDS CAN'T WAIT UNTIL 1992

In an amazing display of both compassion and good fiscal sense, Congress overwhelmingly agreed this summer to provide emergency relief funds for the 13 major cities hardest hit by the AIDS epidemic.

The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 was signed into law last month by President Bush, authorizing $875 million to be spent on AIDS care. The law is intended to help the big-city hospitals that are being overwhelmed by AIDS patients, many of whom have low incomes or who were driven into proverty by medical bills.

Under the disaster relief bill, Atlanta's beleaguered social services agencies and Grady Memorial Hospital were to have received roughly $8.6 million in fiscal 1991 to help cope with about 2,300 AIDS patients.

Despite Congress' clear intention to send immediate help, the law is being tripped up by a Senate appropriations subcommittee. Earlier this month, the subcommittee decided to put only $110 million toward maintaining existing AIDS programs. Full funding of the CARE package will have to wait at least until 1992.

Unfortunately, death will not wait for those suffering with AIDS today. They need help now, but the existing system of care is crumbling from a lack of funds. Continuing to pile a disproportionate number of poor and uninsured patients on financially strapped public hospitals is neither fair nor economically efficient.

In the long run, spending federal dollars today to support community health centers, nursing services and groups providing support such as nutrition, home visits and counseling is a cheaper and more effective way to treat patients than to dump them tomorrow on expensive public hospitals.

The Appropriations Committee, which will take up the AIDS issue this week, should ignore the subcommittee's descision and agree to fully fund the program.

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[From the Los Angeles Times, Sept. 15, 1990]

DO'S AND DON'TS OF BUDGETING—DO STOP PLAYING GAMES; DON'T CUT AIDS FUNDING

Some Washingtonians complain that they don't have their own baseball team. They may not have a ball club, but the current budget negotiations prove they sure do have some top-flight game players on Capitol Hill. Too bad they're making a game of the budget process.

Just when it seemed that congressional negotiators were edging close to an agreement on how to cut $500 billion from the federal deficit over the next five years, petty partisan politics surfaced again, threatening the chances of negotiating a budget deal that both Democrats and Republicans can live with. Without a deal, Congress would, in effect, relinquish its duty to make responsible decisions about the federal budget, leaving the budget process to the Gramm-Rudman "automatic pilot" approach that would impose unthinking, across-the-board cuts.

The Democrats began howling that the Republicans were trying to soak the poor with taxes while giving tax breaks to the wealthy. The proposal, according to an analysis by the bipartisan Joint Committee on Taxation, would lower taxes by $2.9 billion for those in the $100,000 to $200,000 bracket, decreasing their share of federal taxes from 12.1% to 11.8%; in contrast, the largest tax increases would be imposed on earners in the $20,000 to $30,000 bracket, with a 1.4% increase and the $30,000 to $40,000 bracket, with a 1.2% increase.

The Republicans shot back that the Democrats were leaking "garbage" partisan propaganda; that plan was days old and greatly distorted, the GOP said. Still, the Republicans continue to push for a cut in the capital gains tax in the hope of spurring economic growth and more spending cuts. The Democrats push the "tax equity" issue—that poor Americans should not carry an unfair burden of tax increases—and prefer a greater measure of tax hikes.

There already exists, as we've said before, the elements of a pragmatic, if not ideal, budget solution: Higher income taxes for higher-income Americans, with lower taxes on capital gains. Democrats and Republicans must agree on a starting point first; then the art will come in the details.

There is one detail that must not be lost amid all this: AIDS funding. Just last month, Congress passed legislation that authorized the federal government to spend up to $875 million—for the first time—for the clinical care of AIDS patients. Cities, counties and states have been shouldering the day-to-day costs of diagnosis and treatment of the deadly disease that knows no municipal boundaries. In Los Angeles, one of 16 cities with the most AIDS cases, the bill would mean $13 million a year for five years. In San Diego, it would mean $2.4 million a year. The Senate Appropriations Committee next week should restore funding cuts made by an earlier subcommittee vote.

When it comes to spending taxpayer money, yes, prudence must prevail. But the careful management and economy that prudence implies also requires that government do all that it can to manage—and prevent—the spread of a killer disease.

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[From the San Diego Union, Sept. 25, 1990]

AIDS FUNDING

An emergency bill that would funnel millions of federal dollars into San Diego County immediately to treat AIDS patients has hit a snag on Capitol Hill.

Legislation authorizing the program was passed overwhelmingly this summer by the House and Senate and signed by President Bush. But financing it has turned out to be another matter. A Senate Appropriations subcommittee this month voted to postpone funding on most of the bill until next year.

This measure, known as the Ryan White Comprehensive Aids Emergency Resources Act, in memory of the Indiana boy who struggled valiantly against AIDS discrimination, calls for $875 million to fight AIDS. A portion of it, $275 million, is earmarked as emergency relief to 16 U.S. cities and counties hard hit by AIDS, including San Diego, San Francisco and Los Angeles counties.

San Diego was included in the bill at the last minute, thanks to rallying efforts this spring of San Diego AIDS activists and health care providers who mounted a publicity campaign to spur reporting AIDS cases here. Partially as a result of their efforts, the number of reported cases jumped from 1,344 in July of 1989 to 2,084 this past July, a 55 percent increase and enough to qualify under the bill's guidelines. There are currently 30,000 HIV-infected people in San Diego.

When the full Senate Appropriations Committee considers the Ryan White bill this week, it should overturn the subcommittee's decision to postpone the funding. Sen. Brock Adams, D-Wash., has come up with a compromise that merits prompt approval. He is offering an amendment calling for financing $150 million of the $275 million earmarked for hard-hit regions. That would provide an immediate $1.4 million to San Diego County, plus a share of $75 million to be awarded to the 16 regions on a competitive bidding basis within five months.

The money would come from across-the-board cuts, amounting to less than 1 percent, from other programs the committee finances, such as Head Start, worker training, mine safety, low-income home energy assistance and others. None of the "trimmed" programs would drop below current funding levels, after adjusting for inflation.

Sen. Adams, whose state does not contain one of the 16 crisis regions, is a shining example of a legislator who has overcome the "what's in it for me?" attitude.

AIDS is a health care emergency that already has claimed more than 87,600 American lives. At the very minimum the Appropriations Committee should pass the amended version of the Ryan White bill.

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[From the San Francisco Chronicle, Sept. 12, 1990]

MAYORS' PLEA FOR HELP IN WAR ON AIDS

IT WAS ONLY hours after Iraqi tanks rolled into Kuwait that President Bush spearheaded worldwide condemnation of Saddam Hussein. Contrast that with the glacial U.S. response to another invader that has killed more than 85,000 Americans—the HIV (AIDS) virus. It was six years into the epidemic before President Reagan even mentioned AIDS publicly.

Now, Congress and the White House have a chance to compensate for an unconscionably slow response to an epidemic that continues to unmercifully kill thousands of men, women and children each year.

The Ryan White Comprehensive AIDS Resources Emergency Act of 1990, named after the Indiana youth who struggled against AIDS related discrimination, is before the Senate Appropriations Committee today. Despite overwhelming congressional support, this landmark legislation may not be fully financed. Concern for the federal budget deficit, compounded by the costs for mobilizing troops in Saudi Arabia, could derail the money.

Until now, federal AIDS spending has been mostly on research and education. Cities, like San Francisco and New York, have carried the financial burden for AIDS care and treatment. The Ryan White bill would change that by authorizing $275 million in emergency grants to the 16 cities most affected by AIDS. An additional $275 million would be used to improve health care and support AIDS services nationwide. Another $250 million allocation would be available for early medical intervention for those infected with the HIV virus.

The price tag is expensive, but it would be far more costly not to fund the bill. This measure would bring order to a system that is at best chaotic. It would begin to structure care in a logical way, with case management that provides the level of health service needed to avoid hospitalization at a cost of $1,000 per day. The extent to which we keep HIV-infected people healthy and working, we can relieve the burden on our health-care system.

The federal government has done an admirable job of financing AIDS research. But the service delivery system is so haphazard that many poor people cannot get access to the fruits of that research. We are not talking about extraordinary measures, but advancements such as AZT. Quite simply, the Ryan White AIDS bill, if fully financed and signed by the president, will save lives.

New York and San Francisco have been especially hard hit. More San Franciscans have died of AIDS than died in World War I, World War II, Korea and Vietnam—combined and tripled. In the South Bronx, 6 percent of the residents there may die from AIDS.

Cities like New York and San Francisco, which have pioneered compassionate and cost-effective programs, have done so out of their own city dollars. If this federal AIDS bill is not fully financed, cities hardest hit by AIDS will see public health programs collapsing under the weight of this epidemic.

Our cry is the same. Although 3,000 miles separate us, we are united in our call for federal assistance. Protecting lives at home must be given the same priority as protecting strategic oil fields abroad.

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[From the San Francisco Examiner, Sept. 12, 1990]

VOTE MONEY FOR AIDS CARE—CITIES AND SICK PEOPLE DESPERATELY NEED FUNDS BEING BLOCKED IN CONGRESSIONAL COMMITTEE

Last month, both houses of Congress overwhelmingly approved a national AIDS policy and authorized up to $880 million to help localities care for people with the disease. San Francisco, which has the second highest number of AIDS cases among the nation's cities, stand to receive at least $20 million a year for the next five years—a total of $100 million—money that is badly needed by overburdened health-care providers.

But while Congress authorized the money, it did not appropriate it. The actual appropriation is being taken up now amid indications of serious trouble. Sen. Tom Harkin of Iowa, chairman of the subcommittee that is handling the measure, opposes the expenditure and is threatening to severely reduce it or kill it altogether.

If Harkin is successful, he will be condemning thousands of people to suffering and death. Poor people who are sick or are in danger of getting sick will be denied AZT. There will be longer waits for treatment and for early intervention to prevent HIV-infected people from falling ill. Instead of receiving preventive care, some people will not be treated until they are hospitalized with full-blown AIDS, at much greater human and financial cost.

Harkin comes from Iowa, which has had relatively few AIDS cases so far, so he may not understand how serious this epidemic is for the nation and how devastating it is for individuals with the disease. In San Francisco, we understand all too well. More than 87,000 Americans have died horrible deaths in the last 10 years, and it is both callous and outrageous for a United States senator to say that money should not be spent to help those who are now ill.

The federal government has done a good job of supporting AIDS research and a fair job of paying for AIDS education, but so far it has done nothing for health care, the cost of which has fallen on localities. Yet this is a national problem of enormous proportions. It must not be treated as anything less.

Congress understood that when it voted to allocate the money. Now it should back up that vote with an appropriation. The members of the subcommittee and the full Appropriations Committee should not allow Harkin to stand in the way of this measure. The country needs it, the cities need it, and most important, thousands of sick people desperately need it.

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[From the Dallas Morning News, Sept. 17, 1990]

AIDS RELIEF: SENATE APPROPRIATIONS PANEL MUST RESTORE FUNDING

When Congress authorized spending more than $700 million to help areas that have been especially hard hit by the AIDS crisis, it acknowledged that the federal government needed to pay a much larger role in providing health care to the thousands of Americans living with the deadly virus. Dallas is to receive about $4 million from the relief package during the first year.

But while Congress authorized the money, it did not appropriate it. The actual appropriation now is being considered by the Senate Appropriations Committee, where it has run into serious trouble. A subcommittee last week voted to put up just $110 million to continue inadequate existing programs next year while deferring $490 million for new programs until October 1991.

That delay would be unconscionable. The cities most affected by acquired immune deficiency syndrome—like Dallas—would see their already overwhelmed systems of care collapsing under the weight of the epidemic. Many agencies that have been funded through private grants will exhaust that money soon. Without federal funding, thousands of people nationwide would be condemned to suffering.

True, federal budget makers are facing fiscal constraints. But a year's delay in AIDS funding could well mean the difference between life and death for many seriously ill AIDS patients. When the authorization bill was approved by Congress and signed by President Bush this summer, it was viewed as a form of disaster relief. The subcommittee has betrayed the spirit of that legislation.

The full Senate Appropriations Committee is expected to consider the subcommittee's callous action, perhaps as early as today. The funding must be restored. Yes, the price tag is high, but not funding the bill could be more costly. The more that Dallas and other communities can keep HIV-infected people healthy and working, the less the burden will be on the health care system.

Congress needs to honor its original commitment. Disasters don't wait.

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[From the Miami Herald]

AIDS FUNDS AT HIGH RISK

In a horrible confluence of events, millions of dollars for AIDS treatment and prevention are drying up at the same time. A private, three-year Samuel Wood Johnson Foundation grant that provided Dade and Broward some $2.8 million expires Oct. 31. Federal funding has been halved. The state budget shortfall may mean a 5-percent cut. The two counties, especially Dade, have no extra dollars.

Worse, the expected relief from the much-praised Ryan White Act may be gutted by the Senate Appropriations Committee. A subcommittee has recommended postponing allocations for the nation's hardest-hit areas for at least a year. Dade expected to receive $5.8 million; Broward, $3.9 million. Congress had pushed the bill as a form of "disaster" relief similar to that given after hurricanes and earthquakes.

Indeed, AIDS has been a disaster for social-service and health agencies. Local tax resources strain to pay for hospital and hospice services and to gear up an educational effort to prevent AIDS's spread.

Stunned agency heads frantically are trying to raise private money as well as shake loose the new Federal dollars. At stake are counseling services, a dental clinic, coordination for volunteer efforts, outreach to drug abusers, and case management.

The Dade and Broward community foundations are raising funds to be matched by the National Community AIDS Partnership for a total of $1 million over a two-year period. That money would go into education and prevention. Already the Broward group has a donation of $25,000 from the North Broward Hospital District. This helps, but it does not begin to meet the overall needs.

Barbara Lloyd, director of the South Florida AIDS Network, calls these losses "devastating." Her agency helps some 5,400 people in Dade, 3,000 in Broward.

While those numbers seem small for the South Florida metropolitan area, AIDS increases exponentially. For example, the Broward caseload was 486 a mere three years ago when the Johnson Foundation grant was announced. Congress passed the "disaster-relief" bill precisely because of the impact, both human and financial, on U.S. communities. AIDS will not wait for budgetary considerations; to postpone help is to drive up the costs, both human and dollars, in the future.

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[From the Boston Globe, Sept. 20, 1990]

AIDS-DISASTER RELIEF

Emergency relief funds for AIDS treatment—the first substantial federal money to help the cities that are hit hardest by AIDS—have been ruled out by a congressional appropriations subcommittee. If the decision stands, the federal assistance, though desperately needed, will be put off for at least a year.

After receiving overwhelming support in both the House and the Senate, reversal on the aid by the Senate Labor Appropriations subcommittee is a sign of how tough the competition for federal money has grown. Support for treatment subsidies gained broad acceptance after the death last April of Ryan White, the Indiana teen-ager who contracted AIDS from contaminated blood used as part of his treatment for hemophilia.

The bill, which eventually bore Ryan White's name, was introduced by Sen. Edward Kennedy (D-Mass.) and Sen. Orrin Hatch (R-Utah). It authorized $875 million for programs designed for the most efficient and economic management of AIDS treatment—a mix of subsidies for hospital care, home-care services, hospices and special residences for AIDS patients. Funds also were earmarked for AIDS education and prevention in rural areas, where AIDS cases are rising.

Boston was to have received $5.8 million under the bill, which was the health-care equivalent of federal disaster relief for natural calamities such as earthquakes or hurricanes. With more than one million Americans infected with the AIDS virus and heading into serious illness, every effort should be made to have the funding restored by the Senate Appropriations Committee.

Far from abating, the AIDS epidemic already strains the budgets, the medical facilities and the medical manpower of the nation's cities. With up to 50,000 AIDS cases being diagnosed this year—each requiring treatment that will cost $150,000—federal help with funding can no longer be postponed.

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[From the Chicago Sun-Times, Sept. 25, 1990]

DON'T SLASH AIDS-BILL FUNDING

Congressional backsliding on funding jeopardizes the emergency AIDS relief bill signed by President Bush last month.

We join Mayor Daley and chief executives of other big cities in urging the Senate Appropriations Committee to restore most of $700 million that a subcommittee whittled by six-sevenths.

As introduced, the disaster relief bill called for $300 million to treat AIDS patients for the next two years and another $300 million for setting up community-based

planning strategies. The money was targeted to the 16 urban areas with the greatest concentration of AIDS victims.

Both items were scuttled in subcommittee. All that is left is $110 million to continue present programs for one year. That is grossly inadequate.

Mayor Daley points out that the revised legislation would deprive Chicago of $5 million; it would cost much more for cities such as New York and San Francisco, which have far greater numbers of AIDS cases than the 3,000 reported in Chicago.

This is not a case of besceeching Congress for funds for preventive attempts to control a disease (although that is part of what is covered). The original bill authorized up to $150,000 for the health care of patients already afflicted, and these thousands of people are the ones who would suffer most immediately from lack of federal funds.

We do not sympathize with lawmakers' arguments that the bill passed too late in the session to provide proper funding. Given the leviathan federal budget, it defies belief that at least $300 million could not be restored for the care of patients.

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[From the Macon Telegraph and News, Aug. 27, 1990]

OUR CLOSER CRISIS REQUIRES OUR ACTION

Our preoccupation with the oil/aggression/hostage crisis in the Middle East must not divert us from doing anything about the sex/drug/health crisis in Middle Georgia.

To be sure, the crisis that has dominated the headlines throughout August has hit much closer than the distant Arabian peninsula and storied Mesopotamia. Our own sons and husbands may go; the gasoline we put in our own cars may become costly as liquid gold; our own jobs may be lost or businesses stranded by a war-hastened recession.

So we are right to take "the Iraq thing" personally. But we must also take something to heart, and act on it, that is escalating fearsomely here.

That is the Mid-Georgia AIDS crisis, the rural AIDS crisis.

You don't believe there is such a thing, that it's just gay propaganda? Listen to what the National Commission on AIDS said in the report to President Bush and Congress last Tuesday:

The Bibb County HIV Ambulatory Clinic is "virtually overwhelmed with the increasing number of people with HIV infection and AIDS needing treatment and support services."

The point the report was pursuing was that this clinic and others like it do not receive federal aid, and are going to have to. That may be so, but our concern here is different. The finding that AIDS infections have tripled in Georgia during the past two years—and are now, for the first time, spreading in rural Georgia at the same rate of growth as in metropolitan Atlanta.

And how has Georgia responded? The report is damning:

"AIDS education is virtually non-existent and desperately needed," as evidenced by an "epidemic of fear and bigotry affecting rural America, where the fear of being 'found out' is almost as great as the fear of the disease itself."

"Many health care workers still refuse to fulfill their obligations to the sick if the disease is HIV."

It is ironic that the commission is based on legislation introduced by Georgia 8th District Rep. Roy Rowland, a medical doctor, who is now one of the 15 members of the blue-ribbon body.

He says overburdened community clinics like Macon's should be helped by the recently passed Comprehensive AIDS Resources Emergency Act. But it is not something to be left to the government.

Business, religious organizations, charities, local government must get into the fight against AIDS, Rowland said. We add:

Ordinary citizens have to be given accurate information to replace rumor, myth and bias.

The health care profession needs to reread the Hippocratic Oath and perform a searching attitude check.

We can no longer dismiss the crisis as something cooked up by or affecting only "they"—drug addicts, gays or street people.

We have seen the crisis, and the crisis is us.

Mr. DURENBERGER. Mr. President, I would like to take the opportunity to compliment the chairman and other members of the Subcommittee on the 1991 Departments of Labor, Health and Human Services, and Education and related agencies appropriation bill. While I have one grave concern about the bill, basically, I am pleased with the subcommittee's work. It is only the unfortunate mandate to expand funding of abortion which causes my negative vote for final passage.

In particular, I am pleased with the subcommittee's "Agenda for a Revitalized Rural America." The subcommittee continues to recognize the difficulties rural areas face in getting quality healthcare and education, and both the plan and its Senate funding levels represent another important step toward overcoming these difficulties.

Of the agenda's programs and allocations, the increased funding for rural health care transition grants is very important to me. The grant program was authorized by legislation that I first introduced in 1987. Under this program, rural transition grants of up to $50,000 a year for 2 years are awarded to small rural hospitals to help them develop and implement transition strategies that modify the type and extent of services such hospitals provide. The grants assist rural hospitals and their communities in adjusting to changes such as declining demand for acute-care hospital capacity, increasing demand for ambulatory and emergency services, declining ability to provide appropriate staffing for inpatient services, and changes in service populations. Rural hospitals in my state of Minnesota have been generously funded by this program. Under the first round of grants from this program, eight Minnesota rural hospitals received grants. This year, these eight hospitals received continuation funding, and 10 additional Minnesota rural hospitals received new awards. The increased funding for this program means that more hospitals will be able to receive these very important grants.

Also from the "Agenda for a Revitalized Rural America," I am pleased that the subcommittee has doubled the funding for the National Health Service Corps, provided funds for the Essential Access Community Hospitals and Rural Primary Care Hospitals program, and increased the funding for the Office of Rural Health Policy.

Mr. President, I want to mention three other aspects of this bill which I strongly endorse. The first is the Subcommittee's decision to increase the funding level for Alzheimer's disease research to a level commensurate with the public health impact of this condition. The second is the increased level of funding provided for immunization activities. The third is the increased funding level for the Medical Treatment Effectiveness [MedTep] Program of the Agency for Health Care Policy and Research. The MedTep Program supports outcomes research, data development, clinical practice guidelines, quality standards development, and information dissemination activities. Earlier this year, Senator MITCHELL and I, joined by our colleagues, Senator ROCKEFELLER, Senator HATCH, and Senator KENNEDY, urged the subcommittee to increase funding for the MedTep Program, and I want to express my appreciation for their attention to our request.

As I have said, I support many of the steps taken and priorities set in this appropriations bill. However, this bill does contain a serious error, in my judgment, which is the expansion of the Hyde amendment to broaden potential Federal funding of abortion. Throughout my career I have voted to prohibit Federal funding of abortions except to save the life of the mother. For 11 years now, I have worked on the Senate Finance Health Subcommittee to expand financial access to required services for America's poor—especially her mothers and children. Mr. President, abortion is not such a medical service except where the mother's life is at risk. I am hopeful that this matter can be resolved in conference and current law restored so that we can vote on a final appropriation that a large majority of the Senate can support enthusiastically.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5257, the Labor, Health and Human Services, and Education and related agencies appropriations bill and has found that the bill is under its 302(b) allocation budget authority by $10.6 million and under its 302(b) outlay allocation by $1.3 million.

I compliment the distinguished manager of the bill, Senator HARKIN, and the distinguished ranking member of the subcommittee, Senator SPECTER, for their work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Labor, Health and Human Services, and Education and

related agencies appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

—

[In billions of dollars]

| 302(b) bill summary | Fiscal year 1991— Budget authority | Outlays |
|---|---|---|
| H.R. 5257, Senate reported, (new BA and outlays) | 161.4 | 128.6 |
| Enacted to date | 17.1 | 47.7 |
| Adjustment to conform mandatory programs to resolution assumptions | −4.2 | .6 |
| Scorekeeping adjustments | 0 | 0 |
| Bill total | 174.3 | 176.9 |
| Senate 302(b) allocation | 174.3 | 176.9 |
| Total difference | | |
| Discretionary: | | |
| Domestic discretionary spending | 50.7 | 53.5 |
| Domestic discretionary allocation | 50.7 | 53.5 |
| Domestic discretionary difference | | |
| International discretionary spending | | |
| International discretionary allocation | | |
| International discretionary difference | | |
| Total discretionary spending | 50.7 | 53.5 |
| Total discretionary allocation | 50.7 | 53.5 |
| Total discretionary difference | | |
| Mandatory spending | 123.6 | 123.4 |
| Mandatory allocation | 123.6 | 123.4 |
| Mandatory difference | | |
| Bill total above (+) or below (−): | | |
| President's request | 5.0 | 1.3 |
| House-passed bill | .4 | .1 |
| House 302(b) allocation | NA | NA |
| Programmatic baseline | 4.3 | .8 |

Mr. COCHRAN. Mr. President, the bill before the Senate today not only makes education programs available to more students, it makes better quality programs available. Educating all students to their full potential is the basic goal of the $27.6 billion in education funding included in this bill, which is a $3.5 billion increase over last year's funding level.

I believe the best thing we can do is invest in our young people. Quality education programs are critical to our future, both individually and as a nation. If we are to break the cycle of poverty that traps the poorest in our society, protect and defend our democratic freedoms, maintain a competitive position in the international market, and strengthen our character as a nation, nothing is more important than education.

Mr. President, I strongly support this legislation. As a member of the Labor, Health and Human Services, Education, and Related Agencies Subcommittee, I know hard choices were made to best direct the Federal dollars. This bill recognizes that the primary support for education comes from State and local sources—State education agencies, local communities, parents, and teachers make most of the decisions that guide education policy in this country. This bill also recognizes, however, that there is an appropriate Federal role in education. Federal dollars should be used to assist needy individuals to acquire a quality education and help those communities with scarce resources to upgrade their educational system. The bill before the Senate today places a priority on targeting Federal funds to these individuals and communities.

H.R. 5257 represents our effort to fulfill an obligation to the American people to use Federal dollars to strengthen the educational system, to provide our students with opportunities to become productive citizens, and to prepare a work force capable of meeting the needs of the next century.

Highlights of this bill include nearly $6.4 billion for compensatory education programs, a $1 billion increase. Chapter 1 remedial reading and math programs have successfully provided many elementary school children in my State of Mississippi with the necessary basic skills to keep up with their peers and the self-esteem they need to stay in school. I am particularly pleased with the provisions of the bill that allow for full funding of the Concentration Grant Program under chapter 1, which targets additional resources to the neediest children.

In addition, the Head Start Program has proven to be an important factor in the early age development of the most disadvantaged children in this country. The committee increased the funding for Head Start by 30 percent, a $448 million increase. This will allow Head Start to serve up to additional 160,000 children from low-income families and to carry forth new requirements made by the recent Human Services Reauthorization.

The bill provides $20 million for another important new program, "Tech-Prep" education, recently authorized under the Vocational and Applied Technology Education Act. Grants would be made to States on a competitive basis to establish or expand educational partnerships between high schools and community and junior colleges. Under the program, students enter a 4-year program their junior year in high school and complete the program after 2 years of postsecondary education.

For the first time in many years, the committee has been able to lift the cap on Pell grants so that needy students will be able to receive a maximum of $2,400 to help pay for the cost of postsecondary education.

The TRIO programs provide a vital link to postsecondary education for many disadvantaged young people that would not otherwise be available. The TRIO Program, in Mississippi, gives many prospective first generation college students an opportunity to visit college campuses, provides counselors to explain complicated student financial aid procedures, and helps prepare disadvantaged students for college life. This bill provides $342 million for this important program, a $100 million increase.

Other higher education programs considered critical in providing access to disadvantaged students are provided substantial increases over the fiscal year 1990 level. I am particularly supportive of the generous increase for title III programs to strengthen developing institutions and for historically Black colleges and universities, as well as the College Work Study Program.

Technology and distance learning techniques have become integral parts of providing top quality educational programs, particularly in the areas of math and science education, to rural and other underserved areas. I am pleased that the committee has adopted an increase for the Star Schools Program by providing $15 million.

The National Assessment of Educational Progress, recently, found that in 1988 fewer than 25 percent of all high school juniors could write an adequate letter, and most of those were filled with numerous errors. Business and corporation leaders have testified on numerous occasions that they are concerned about the limited basic skills of entry level workers. For these reasons, I applaud the committee's decision to include $2 million for the national writing project, a teacher training program which offers intensive summer institutes and school year programs designed to improve a teacher's ability to teach writing effectively and to elevate the quality of student writing.

I am also pleased that the committee's recommendation for under title I for the Department of Labor includes an increase of $146 million for State employment security programs. These funds will be especially helpful to Mississippi, which has continued to experience high rates of unemployment at the same time that a number of service delivery points are being closed.

Community Service Employment for Older Americans will receive an increase of $33 million over last year's level.

I am especially pleased that the committee was able to provide a modest increase totaling about $65 million dollars for programs to help meet the needs of older Americans.

Supportive services under title III-B of the Older Americans Act is increased by $26 million over last year's appropriation; nutrition services, including congregate and home-delivered meals, are increased by about $30 million; grants to Indians are increased by about $3.5 million; and in-home services for the frail elderly are given a modest increase of just over $1.2 million.

Since fiscal constraints demand that we scrutinize all Federal programs for necessity and effectiveness, I believe this bill has for the most part given priority to those health care programs that truly make a difference in the lives of individual citizens. I am especially pleased that the bill is sensitive to the unique needs of those living in

rural America. Over the past few years, rural health care has been a major concern of the Congress, and I think this legislation reflects that concern by addressing many of the fundamental health care problems experienced in rural towns and small communities.

Of particular importance is the recognition of the broad concern in the administration, Congress, and the Nation over the growing shortage of health professionals in our rural areas. This bill significantly increases funding for the National Health Service Corps to provide scholarships or repay health education loans for physicians and other health professionals willing to serve in areas with shortages of health care providers. Over 12 million Americans live in areas lacking primary health care services. According to the Department of Health and Human Services, my own State of Mississippi has 58 health manpower shortage areas. We need 107 additional health care providers in Mississippi to serve citizens living in these areas. Provisions in this bill will help Mississippi and other States meet health needs by enhancing the Federal commitment to help States address their shortages of health care professionals.

Another important element of the bill is funding of Federal matching grants to encourage creation of State offices of rural health. I believe there is a great need for many States to begin building their own infrastructure to facilitate coordinated approaches to rural health care problems. State offices of rural health will concentrate on eliminating deficiencies in rural health care delivery systems. They will examine rural health care and recommend improvements in quality and cost effectiveness, assist in recruitment and retention of health professionals, make recommendations to the Federal Office of Rural Health Policy for consideration as part of Federal policies, identify Federal and State programs regarding rural health, and provide technical assistance to public and nonprofit private entities regarding participation in such programs.

I am also pleased that this bill enhances the priority the Federal Government gives to preventive health services. There is no question that investment in preventive health reduces overall health care costs. It is important that the Federal Government show leadership in this field by allocating a significant portion of its health related funds to preventive care as a means of combating escalating health care costs and improving the quality of life for millions of Americans. This bill takes a significant step toward that end.

Mr. MACK. Mr. President, I would like to state my position in relation to my vote against the Senate version of H.R. 5257, the Labor, Health and Human Services, and Education appropriations bill.

While I support many of the provisions of the bill, including $2.184 billion in AIDS and $1.747 billion in cancer research and treatment activities, an increase of $7,051,099 in grants to States for Medicaid, and additional funding for the National Institutes of Health, the Centers for Disease Control, and the Department of Education, I was forced to vote against the bill.

With the need for Congress to show restraint in Federal spending, I cannot support an appropriation bill that increases spending by $24.3 billion for fiscal year 1991. The people of Florida insist that we in Congress learn how to say no. They are outraged by our spending addiction and believe the deficit demands we bring a tighter standard to our appropriations process.

I believe our Nation's priorities, as well as those of the State of Florida, can be adequately funded without providing a 15.3-percent increase. We simply cannot afford to do business as usual.

Mr. SPECTER. Mr. President, we are prepared to move to third reading, unless there are further amendments. I think there has been ample notice for our colleagues to that effect.

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 as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, do we have the yeas and nays on final passage?

The PRESIDING OFFICER. They have not been ordered.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. DOLE. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

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

The result was announced—yeas 76, nays 15, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—76

| | | |
|---|---|---|
| Adams | Ford | Mikulski |
| Akaka | Glenn | Mitchell |
| Baucus | Gore | Moynihan |
| Bentsen | Gorton | Murkowski |
| Biden | Graham | Nunn |
| Bingaman | Gramm | Packwood |
| Boren | Harkin | Pell |
| Boschwitz | Hatch | Pressler |
| Bradley | Heflin | Pryor |
| Breaux | Heinz | Reid |
| Bryan | Hollings | Riegle |
| Burdick | Inouye | Robb |
| Burns | Jeffords | Rockefeller |
| Byrd | Johnston | Rudman |
| Chafee | Kennedy | Sanford |
| Cochran | Kerrey | Sarbanes |
| Cohen | Kerry | Sasser |
| Cranston | Kohl | Shelby |
| D'Amato | Lautenberg | Simon |
| Danforth | Leahy | Specter |
| Daschle | Levin | Stevens |
| DeConcini | Lieberman | Thurmond |
| Dixon | Lugar | Warner |
| Dodd | McCain | Wirth |
| Dole | McClure | |
| Exon | McConnell | |

NAYS—15

| | | |
|---|---|---|
| Armstrong | Grassley | Mack |
| Bond | Helms | Nickles |
| Coats | Humphrey | Roth |
| Conrad | Kasten | Symms |
| Durenberger | Lott | Wallop |

NOT VOTING—9

| | | |
|---|---|---|
| Bumpers | Garn | Metzenbaum |
| Domenici | Hatfield | Simpson |
| Fowler | Kassebaum | Wilson |

So the bill (H.R. 5257), as amended, was passed.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—ADDITIONAL AMENDMENTS TO H.R. 5257

Mr. HARKIN. Mr. President, I ask unanimous consent that, notwithstanding final passage, the following managers' amendments be considered as having been agreed to en bloc. It has been cleared with the minority side.

Mr. SPECTER. I concur.

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

By unanimous consent, the following additional amendments were deemed to have been agreed to notwithstanding passage of H.R. 5257 having been completed:

AMENDMENT No. 2963

On page 51, line 4, strike out "$1,684,499,000" and insert in lieu thereof "$1,685,247,000".

AMENDMENT No. 2964

On page 49, line 26, strike "$14,000,000" and insert in lieu thereof "$11,000,000."

On page 51, line 4, strike "$1,684,499,000" and insert in lieu thereof "$1,685,499,000."

On page 51, delete the period at the end of line 24 and insert the following: "and provided further that of the amounts appropriated herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law.".

On page 61, line 19, strike "$139,726,000" and insert in lieu thereof "$141,726,000" and in line 25, delete the period and insert the following: "; and of which $2,000,000 shall be available, to remain available until expended, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, Commission, or other entity whose functions shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed or elected officials nor State elected officials but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting.".

STATEMENT ON AMENDMENT NO. 2963

Mr. BRADLEY. Mr. President, because of a minor error, funding for gifted and talented education did not take into account last year's supplemental. This amendment simply adds $748,000 to this program to make it consistent with the House-passed level.

Mr. HARKIN. Mr. President, I move that the Senate insist on its amendment to the bill H.R. 5257 and request a conference with the House and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. ADAMS, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. RUDMAN, Mr. MCCLURE, Mr. COCHRAN and Mr. GRAMM conferees on the part of the Senate.

Mr. HARKIN. Mr. President, I want to take this opportunity again to thank my colleague from Pennsylvania, Senator SPECTER, for working so closely with me on this bill. As I said, it is a well-balanced bill. It is one that meets a lot of human needs throughout this country., I thought the debates on the amendments today were fair. Quite frankly, I think we have gotten through in just about record time, if I am not mistaken.

So, again, I thank all Senators for their indulgence and for their support for this very meaningful piece of legislation.

Mr. SPECTER. Mr. President, I commend my colleague, Chairman HARKIN, for his excellent work. I am glad to see the bill finished, and I yield the floor now so we can proceed with foreign operations and get finished with our work.

## EXPLANATION OF NOT VOTING

Mr. STEVENS. Mr. President, I would like the RECORD to show that I did miss a vote on this bill. It was caused by the fact that I was conducting an interview by satellite telecommunications and could not return to the floor. Since I made the other votes today, I wanted the RECORD to show where I was on that vote.

The PRESIDING OFFICER. The RECORD shall so indicate.

Mr. GRASSLEY. Mr. President, I voted against H.R. 5257, the Labor appropriations bill, and want to provide my colleagues with a brief explanation.

Our distinguished colleague from North Carolina, Senator HELMS, made a telling point earlier today when he underscored the fact that this bill is a whopping $11.597 billion over the President's budget request—well over and above what the President asked for and what the President felt could be wisely spent at the time last spring that he presented to Congress his budget recommendations.

And, in fact, this bill is $12.659 billion over what the House approved.

Much has occurred since the President proposed his budget, and since the House passed this Labor appropriations bill back in July.

And it has all come to a head, peaking with the budget crisis and calamity that has paralyzed the final days of the 101st Congress.

Senator HELMS' comments about how this bill is $11.5 billion over the budget request were particularly piercing today, because as we stood here today arguing over this bill, House and Senate Agricultural Committee negotiators were struggling over how in the world they could come up with $13.6 billion in farm program cuts without decimating hundreds of thousands of family farmers throughout the country.

I might note parenthetically, that the original budget summit agreement, for which President Bush was widely blamed or credited for producing, depending upon your perspective on the plan, would have cut agriculture by $13.1 billion.

The Democrat passed budget plan, however, required an additional one-half billion dollars in cuts, increasing the farm cuts to $13.6 billion.

Are these farm cuts fair? You can bet the farm they are not.

And unfortunately, "the farm," and hundreds of thousands of them, are exactly what Congress is risking with this bet.

Furthermore, I have been informed today that it is the Midwest farmers, particularly those from areas like Iowa, are getting the worst of these cuts.

So, I ask myself today, "How can I support a Labor appropriations bill that is $11.5 billion over the President's request, and $12.6 billion over the House passed bill, when I think of what this overspending could mean if it were instead used to help buffer and offset the unfair cuts being applied to my Iowa farmers?"

Well, Mr. President, Iowa's economy depends greatly upon the farm sector. About 7 out of every 10 jobs in Iowa depend directly or indirectly upon agriculture.

So, the answer to my question was crystal clear today. I simply cannot justify voting in favor of this bill, while my State's economy is on the chopping block.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WIRTH. 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. WIRTH. Mr. President, I ask unanimous consent that I may address the Senate as in morning business for 4 minutes.

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

## AGREEMENT ON PROGRAM ACCESS AND EXCLUSIVITY PROVISIONS OF S. 1880

Mr. WIRTH. Mr. President, last night Senator GORE and I announced an agreement on the program access and exclusivity provisions of S. 1880. We have discussed and debated the issues of program access back and forth as Members of the House and now as Members of the Senate for many, many years. This agreement, I believe, represents a major breakthrough.

Mr. President, I believe that the steps that Senator GORE and I have taken together break the logjam related to the cable legislation which can now move forward.

In developing the compromise which we arrived at after a lot of very, very hard bargaining, which will be familiar to those who have been close to the issue, we used the framework available in S. 1880.

The goal of this agreement is to promote competition in the distribution of video programming. Today, cable television competes primarily against

broadcast television and competition has intensified since the adoption of the Cable Act in 1984. The cable industry and over-the-air broadcasters compete vigorously for product, advertising revenues, and viewers.

At the same time, new technologies are developing which already, or are soon expected to, compete with broadcasters and cable. The agreement balances the competitive needs and interests of cable television operators, other distribution technologies, and video programming vendors.

In general, competition that promotes diversity of programming choices provides the greatest benefits to consumers. I believe program diversity can best be fostered by Federal policy which allows video programming vendors and their distributors to engage in exclusive distribution arrangements. Such a policy encourages investment in new and innovative products, and has been proven the best method for development of television viewing choices. For example, the rights of broadcasters to exclusive distribution of product in their markets has long been recognized by the FCC's network nonduplication rules, and recently was reaffirmed by the Commission's reimposition of syndicated exclusivity for television broadcasters. In the last Congress, the Satellite Home Viewer Act also recognized and reaffirmed this policy.

The agreement also recognizes that the complex ownership arrangements in the television business may provide artificial incentives for programming vendors affiliated with one distribution technology to withhold programming from other distribution technologies. In these circumstances, all multichannel video system operators need to be assured of the opportunity to distribute video programming.

The agreement strikes a fair balance that requires the FCC to promulgate regulations to prohibit any vendor of nationally distributed video programming, in which a multichannel video system operator shares ownership affiliation, from unreasonably refusing to deal with any other multichannel video system operator. At the same time, the provisions of the agreement assure that multichannel video system operators will have the opportunity to compete with one another through exclusive distribution arrangements. The agreement makes it clear that entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal. The agreement includes a list of criteria that the FCC must consider in determining if a specific exclusive arrangement significantly impedes competition in a particular market.

Under the agreement, vertically-integrated video programming vendors are required to make their nationally distributed programming available to all cable systems, operators, and buying groups on similar prices, terms, and conditions. Differences in prices, terms, and conditions that reflect normal business practices are permitted. For example, price differentials could be offered if they take into account varying programming costs or legitimate economic benefits, such as promotional assistance, received from different purchasers, or if they are offered to match a competitor.

In addition, bona fide volume discounts may continue to be offered. These include discounts that take into account economies of scale, other cost savings and benefits due to the varying number of subscribers served by different purchasers.

Finally, the agreement also includes provisions to address C-band satellite programming. Approximately 3 million Americans own C-band dishes, most of them in rural areas. This technology has brought television programming to areas that cable and broadcasters cannot now serve and are unlikely to be able to serve in the future. A retail infrastructure for sale of satellite dishes already exists and many of the entrepreneurs in this area already are engaged in the packaging and retail sale of various cable programming networks.

However, because of the relatively small market for C-band programming and the present inability of cable to serve many of these customers, it is unlikely that many programming networks will be created to compete with cable for these customers. This contrasts with the potential market for Ku band customers, which is already attracting large programming ventures planning to produce and market programs in competition with cable.

The agreement establishes a limited exception for C-band programming to the general Federal policy permitting exclusivity in television distribution. This exception is designed to ensure that rural Americans share fully in the growth and diversity of television programming.

This agreement addresses many of the concerns I had with S. 1880 and will resolve an isuse that has been with us for several years.

This is a very good balance, I believe, Mr. President, and the concerns that I have had and the concerns that have been held by the distinguished Senator from Tennessee, I think, have finally been able to be worked out.

I look forward to working with Senator DANFORTH. We have discussed this with him, with Senator HOLLINGS and with Senator INOUYE, and I hope we can now move forward to enact the important cable legislation this year.

A final note, if I might, Mr. President. On this agreement, remember there were two packages of issues in this legislation. There was one package of issues upon which there was no disagreement, in essence, and that was the fact that there had been some problems of excess rates and some problems in service. We had all agreed on that set of provisions.

The other set of provisions related to access exclusivity. That was the area where there were some very deep disagreements. It had been my opinion that some of the proposals would be very damaging to the cable television industry, which as the Chair knows is headquartered in Denver, and has one of the greatest records of growth in the last decade. We did not want to harm that industry.

It is those issues which I felt were very damaging that we have now been able to work out. I want to take this moment to again thank Senator GORE. I also want to thank Senator DANFORTH for his forbearance in all of this; and particularly for the patience of the chairman of the subcommittee, Senator INOUYE, and the chairman of the full committee, Senator HOLLINGS. As we have gone through this rather messy process, they have really given us the time and the room to work it out, and we have now done so.

I ask unanimous consent that an explanation of the agreement, the provisions of the agreements and an outline of the legislation be printed in full in the RECORD at this point.

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

EXPLANATION OF WIRTH/GORE AGREEMENT'S KEY ADDITIONS TO S. 1880

The agreement directs the FCC to issue regulations prohibiting any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to nationally-distributed video programming. Entering into or abiding by the terms of an exclusive contract that does not significantly impede competition shall not be considered an unreasonable refusal to deal.

EXCLUSIVITY CRITERIA

The agreement also directs the FCC to consider three criteria in determining if a specific exclusive contract significantly impedes competition.

The first criterion focuses on the conduct of integrated video programmers. The FCC is directed to consider if a contract, when together with other exclusive contracts for the same programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition.

The second criterion focuses on the conduct of multichannel video system operators with respect to exclusive contracts. Under this criterion, the FCC would be required to consider whether an exclusive contract would significantly impede competition in a particular market. In making that judgment, the FCC must look at other exclusive contracts for similar programming in that market.

This criterion recognizes that while an exclusive contract for a particular programming service may not significantly impede competition in one market, a similar con-

tract for that programming service may work to significantly impede competition in a second market because of other competitive conditions. By requiring the commission to consider the exclusive contract in light of other exclusive contracts in a particular market, it ensures a comprehensive analysis of the contract's competitive impact.

The final criterion mandates that the commission consider whether shifting a program service that was previously offered on a non-exclusive basis to an exclusive arrangement significantly impedes competition. Thus, the commission must look at changes in exclusivity arrangements and whether they significantly impede competition.

VOLUME DISCOUNTS

The agreement requires vertically-integrated video programming vendors to make their national distributed programming available to all cable systems, operators, and buying groups on similar prices, terms, and conditions. Differences in prices, terms, and conditions are permitted if they take into account differences in programming costs or legitimate economic benefits received from different purchasers, are offered to meet a competitor's offer, or are attributable to reasonable or legitimate business practices. This can be particularly important to new program services and networks. Bona fide volume discounts that take into account economies of scale, other cost savings and benefits due to the varying number of subscribers on different purchasers are permitted.

PROHIBITION ON COERCION

While there is no intent to deprive those that seek program exclusivity from engaging in normal hard bargaining, if a party is "forced" to enter into an exclusive arrangement rather than agreeing to do so through arms-length commercial bargaining, the result may significantly impede competition.

For this reason, the agreement prohibits use of coercion to obtain an exclusive arrangement.

C-BAND

The agreement also contains important benefits for C-band home satellite dish owners. This is an issue of long-standing interest to Senator GORE and others.

Approximately 3,000,000 Americans own C-band dishes, most of them in rural areas. The number of C-band dish owners is growing at a rate of 350,000 to 400,000 annually.

The agreement requires satellite programmers to make their services available to dish owners and therefore ensures that rural Americans will share fully in the enormous diversity of programming available today.

Further, the agreement requires programmers to establish criteria and nondiscriminatory terms for distribution of their services by other parties. C-band dish owners will therefore have multiple options to receive service, a development that will ultimately drive down consumer costs.

Finally, this provision will also be of enormous help to small enterpreneurs that have already entered or may in the future enter the C-band distribution business.

SUNSETS

Several elements of the agreement include sunset dates.

The programming access provisions would expire after 9 years.

The volume discount provisions would expire after 5 years.

The C-band provisions would expire after 7 years.

PROVISIONS OF WIRTH/GORE PROGRAM ACCESS/EXCLUSIVITY AGREEMENT

Under the agreement, as in S. 1880, vertically-integrated video programming vendors would be prohibited from unreasonably refusing to deal with a multichannel video system operator with respect to nationally-distributed programming.

Exclusive contracts that do not significantly impede competition are permitted under the agreement.

The agreement adds new criteria that the Federal Communications Commission must consider in determining if a specific exclusive contract does significantly impede competition.

The agreement also prohibits the use of coercion to obtain an exclusive arrangement.

As in S. 1880, vertically-integrated video programming vendors would have to provide programming to all cable distributors, systems and buying groups on similar prices, terms, and conditions. However, legitimate volume discounts that reflect economies of scale, other cost savings and similar economic factors as well as other legitimate price differentials may be offered.

The agreement includes the House-passed provisions on satellite-delivered programming for C-band dish owners. This requires satellite programmers to make their services available to dish owners.

Finally, the agreement provides a sunset of 9 years for program access, 7 years for C-band provisions and 5 years for the volume discount provisions.

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AMENDMENT TO S. 1880

PROGRAM ACCESS/EXCLUSIVITY

On page 51, strike lines 1 and 2 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING, MARKETING OF CERTAIN SATELLITE COMMUNICATIONS"

Starting on page 51, line 6, strike everything through line 10 on page 52 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING"

"SEC. 640. (a) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to prohibit any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of nationally-distributed video programming. Entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal.

"(b)(1) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to require any integrated video programming vendor to make its nationally-distributed video programming available on similar price, terms, and conditions to all cable systems, cable operators, their agents, or their buying groups.

"(2) The Commission shall provide in the regulations prescribed pursuant to paragraph (1) that an integrated video programming vendor may continue to—

"(A) impose reasonable requirements for creditworthiness, marketing, delivery, and offering of service, and financial liability and stability (including a requirement that a buying group be legally and financially capable of ensuring the performance of the contract it negotiates);

"(B) establish different prices, terms, and conditions that—

"(i) take into account differences in—

"(I) cost in the creation, sale, delivery, or transmission of its video programming; or

"(II) legitimate economic benefits (including, but not limited to, advertising and other promotional activities) received from different purchasers;

"(ii) are established in good faith to meet equally favorable prices, terms, or conditions offered by a competitor; or

"(iii) are attributable to reasonable or legitimate business practices; and

"(C) grant bona fide discounts (including, but not limited to, discounts to take into account economies of scale, other cost savings, and legitimate economic benefits reasonably attributable to the number of subscribers served by different purchasers and discounts to encourage purchasers to carry a new video programming service)".

On page 52, line 11 immediately after "affiliate" insert ", or other multichannel video system operator".

On page 52, line 12 strike "or" and insert in lieu thereof: ";".

On page 52, line 15 strike the period and insert in lieu thereof: '; or coerce a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system.".

On page 52, line 16 immediately after "(d)" insert "(1)"

On page 52, line 19 strike "(1)" and insert in lieu thereof "(A)"

On page 52, line 21 strike "(2) and insert in lieu thereof "(B)"

On page 52, line 23 after the period, add a new paragraph (2), to read as follows:

"(2) In considering whether any exclusive contract significantly impedes competition, the Commission shall take into account, among other relevant factors:

"(A) whether such a contract, when taken together with other exclusive contracts for that programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition;

"(B) whether such a contract, because of the existence of other exclusive contracts for similar programming in a particular market, would significantly impede competition in that market; and

"(C) whether, if the service subject to the exclusive contract was previously offered on a non-exclusive basis, the change significantly impedes competition.".

On page 53, after line 7, add the following:

"(g)(1) The regulations prescribed under subsection (b) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990. The regulations prescribed under subsection (a) shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection Act of 1990.

"(2) No provision of subsections (a) and (b) shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(h) For purposes of this section—

"(1) the term 'integrated video programming vendor'—

"(A) means any person—

"(i) who licenses or otherwise makes available video programming for national distri-

bution by any multichannel video system operator; and

"(ii) (I) who holds an attributable interest in a multichannel video system operator, or

"(II) in whom a multichannel video system operator or any person with an attributable interest in a multichannel video system operator holds an attributable interest;

"(B) includes satellite delivered programming networks and other programming networks and services;

"(C) does not include—

"(i) a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(ii) a broadcast television station;

"(2) the term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming; and

"(3) the terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

Add a new subsection (b) at the end of section 6, to read as follows:

(b) MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.—

(1) FINDING.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television system; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(2) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(A) by striking "subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(B) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(C) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively.

(D) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1991, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effort prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has establish a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraphs (1)(B) and (1)(C), establish criteria to quality to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions of such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing part.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

Mr. LEAHY. Will the Senator yield?

Mr. WIRTH. I will be happy to yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I hope in the legislation the distinguished Senator from Colorado speaks of, we correct problems. I can think of one actual example—a company out in Fairfax County. I have never had cable—living in a rural area—before.

I had the misfortune of being on cable systems owned by a monopoly in McLean, Virginia. This is an outrageous ripoff, if there ever was one. The picture is terrible. The equipment is antiquated. They block the ability to use new equipment like cable-ready TV sets, and then sell or rent extra equipment of their own. The pictures that come in are fuzzy and distorted. If you call for any problem you can listen to a recording or listen to the number ring for literally hours on end.

Frankly, when you see something as outrageous as all that, you get the impression that if other cable companies are like that—and I hope they are not—they must feel they have a legal license to steal.

I think we have to look at these service issues. I do not know whether it means bringing the telephone companies in and letting them be competitors or requiring at least two companies in an area or what. I am not sure.

I know the distinguished Senator from Colorado has wrestled and worked harder on this than most people. The Senator from Tennessee, Mr. GORE and I have worked together on satellite dish issues.

I hope we will find some alternatives because I know I get mail from con-

stituents who have similar complaints. The impression I get is that many cable companies will not do anything unless forced to do it.

Frankly, as legislation comes up, I will probably propose some amendments to force them to improve service. And I commend the Senator for all his work.

Mr. WIRTH. Mr. President, to reclaim my time, I ask consent to address the Senate for 2 additional minutes in morning business.

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

Mr. WIRTH. I understand the frustrations and problems raised by the distinguished Senator from Vermont. There have been occasions in various communities around the country where perhaps the promise of cable television has, in fact, been abused. We have seen some places where people took advantage of the opportunities available to them on the rate side or the service side and not done the job they should have done to invest in services and in assuring that customers were in fact satisfied.

But we should not be in a position, and I hope the distinguished Senator from Vermont understands this, of assuming that a few apples are going to be allowed to spoil the whole barrel. That is the purpose of the rate and the service side of this legislation, to go after those and make sure there is recourse when there are abuses.

We have to remember as well that the industry overall has grown very dramatically. The numbers of people subscribing to cable television have increased astronomically. This is now one of the most successful industries in the country, both in terms of its financial return to its shareholders, but more important, in terms of the services it is offering to its customers. Those are services ranging all the way from CNN, a new offering which is used by everybody in the world to see what is going on.

The President of the United States has cited over and over again watching CNN to see what is going on in central and Eastern Europe, to see what is going on in Tiananmen Square and so on.

The children's programming being offered costs a great deal of money. The industry has invested very significantly in these new offerings, and I think that is paying off for America and its children.

There are a variety of other provisions in the existing legislation. The public access, affirmative action programs and so on, are very important elements of an industry that is growing well.

In some places the industry shows growing pains. In some places it has outgrown its shoes. In some places it has outgrown its pants, and you see a gap between the shoes and the pants cuff, as you do on small boys who grow up very quickly. What we are trying to do is fashion the cloth and fashion legislation for an industry that is now maturing.

Mr. President, I greatly appreciate having this opportunity to briefly introduce to my colleagues this agreement, which I think makes a great deal of sense for all of us. I am appreciative of the comments made by the distinguished Senator from Vermont. I understand his frustrations and I believe the fabric of this legislation now gives us the opportunity to address those.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

## GORE-WIRTH AMENDMENT TO S. 1880

Mr. GORE. Mr. President, I am pleased to join today with my colleague, the Senator from Colorado, to announce that he and I have arrived at a compromise to solve the most difficult problem facing the passage of cable television legislation in this Congress. Today we are introducing an amendment to deal with the so-called exclusivity issue—an issue which has stalled consideration of this important consumer legislation.

As our colleagues know, this June the Commerce Committee reported by a vote of 10 to 1 S. 1880, the consensus cable legislation introduced by Senator DANFORTH, myself, and many of our colleagues. The committee bill passed by an overwhelming bipartisan vote.

The committee bill is the best possible start toward restoring some sanity to the distorted cable television marketplace, providing some measure of rate control and—even more important—stimulating significant competition for local cable operations. It is important that the Senate pass S. 1880, quickly complete a conference with the House, and send this bill to the White House as soon as possible. Consumers and cable's competitors need this relief now.

S. 1880 is now on the calendar, but has been stymied by the objections of a number of our colleagues who oppose various provisions of the bill. I am certain that, if brought to a vote on the Senate floor, S. 1880 would win overwhelming approval without substantive change. In fact, I believe that no more than a handful of our colleagues would be willing to vote against what has been called the single most important consumer issue in this Congress.

In an effort to break the current deadlock, Senator WIRTH and I have been exploring a possible middle ground on the key issue of exclusivity; that is the ability of companies to negotiate exclusive agreements for cable programming distribution. I have long held that such exclusive contracts might be used to stifle competition for cable operators—from home satellite dishes, wireless cable operators, future high-powered direct broadcast satellites, and even competing local cable systems. The largest cable operators believe that the right to enter into exclusive contracts is crucial to their ability to develop new programming products.

Senator WIRTH and I have passionately disagreed about this issue for a long number of years, but we have sought to reach a fair compromise to allow the Senate to act on cable legislation before the clock runs out on this Congress.

For the past 2 weeks, we have been attempting to construct language which allows—under limited circumstances—exclusive program distribution contracts, while ensuring that the use of exclusivity will not be used to unfairly shut out competing technologies.

In that spirit, Senator WIRTH and I have reached an agreement on an amendment to resolve the disagreement over exclusivity in S. 1880. In short, the measure would allow limited exclusivity, but require the Federal Communications Commission to consider that a number of uses of exclusivity may be determined to be anticompetitive—and thus illegal—if such agreements: First, are part of a pattern of shutting out competition; second, result in moving nonexclusive programming to an exclusive basis; and third, create clusters of exclusive contracts which could create an anticompetitive environment, among other factors.

These criteria are important in establishing the principle that the industry cannot use the right of exclusivity to deny program access to cable's competitors.

In addition, the amendment includes critical language protecting the backyard home satellite dish market. We have been fighting for this provision for 8 long years. I have introduced bills each of the last three Congresses, with the floor votes extremely close each time the Senate has considered home viewing rights legislation. To the dozens of my faithful colleagues who have steadfastly supported those initiatives, I can enthusiastically report that, in this amendment, and in S. 1880, the war for satellite television dish owners has been won.

Mr. President, I sincerely hope that this good-faith effort to reach a compromise will enable the bill's man-

agers to obtain a time agreement and bring S. 1880 to the Senate floor for prompt action. To those who would continue to block its consideration on behalf of the cable industry or the White House, I would only say that such a move will backfire.

Fifty million local cable consumers, and 2.5 million rural families with backyard satellite dishes are fed up with their treatment by this industry. They are demanding the protections embodied in this legislation—legislation which is neither punitive to the cable industry, nor a severe regulatory burden.

This legislation is simply a reasonable solution to a monstrous problem. It is time for the Congress to act.

And I would also point out to those who would continue to block consideration of S. 1880 and to those ideologues at the Office of Management and Budget and the White House—if we are unable to pass legislation in this Congress, I will join others in proposing a new, tough bill early next year. In that regard, I do not consider the attached language the last word on program access, or any kind of starting point for a bill next year.

This compromise will not only remove one obstacle to the consideration of S. 1880 by the full Senate. I am hopeful that the bill will move quickly and that the President will sign it.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Massachusetts.

## THE THREATENED VETO OF THE CIVIL RIGHTS ACT OF 1990

Mr. KENNEDY. Mr. President, the administration's latest threat to veto the Civil Rights Act of 1990 is less than meets the eye. Throughout this debate, Attorney General Thornburgh has been the leading opponent of this legislation. As the letter he has sent today makes clear, he has no intention of relaxing his anti-civil rights position, however reasonable the compromise we reach in Congress.

He has two words in his civil rights vocabulary—"quotas" and "veto." But this is not a quota bill, and it does not deserve a veto.

Perhaps we have reached the final impasse. Perhaps President Bush will follow his Attorney General's advice and veto this major civil rights legislation. In that case, I believe we have a good chance in Congress to override the veto, as we did with President Reagan's veto of the Civil Rights Restoration Act in 1988.

But I urge President Bush to take an independent look at this legislation and the many good faith efforts we have made to go the extra mile and meet every reasonable objection of the White House. If he does, I believe he will sign this legislation, because he will see that it is an antidiscrimination bill, not a quota bill.

We all know the background of this important legislation and the yearlong effort to achieve a bill that Congress and the President can support. For more than 35 years, the U.S. Supreme Court led the way as America struggled to free itself from the legacy of slavery and discrimination that has stained our history.

But in 1989, the Supreme Court handed down a series of decisions that significantly undermined the struggle for equal opportunity on the job. These rulings should not be allowed to stand, because they take us further from the goal of equality and justice for all Americans.

Now, in the closing days of the session, Congress and the administration have the chance to restore and strengthen these laws that shield minorities and women from bigotry on the job, by passing the Civil Rights Act of 1990.

More than 8 months ago, a bipartisan group of Senators and Representatives introduced the original version of the bill. Extensive hearings were held in both bodies, and numerous changes were made to meet concerns raised during the hearings. When the Senate took up the bill, further changes were made, and other changes we were willing to make were blocked by opponents of the bill. The House continued this process of compromise and accommodation; and these efforts have continued through the conference committee's deliberations this week.

In recent days, we have made significant new changes to several key provisions, including those that address the *Wards Cove, Martin V. Wilks,* and *Price Waterhouse* decisions. This compromise language was developed by Senator SPECTER, in consultation with other Senators, including Senator HATCH, who had opposed the bill passed by the Senate.

Specifically, the legislation is being revised in seven ways.

First, the bill addresses concerns about the definition of "business necessity." Where an employer's practices do not involve job performance or selection or where they concern methadone, alcohol or tobacco use, an employer can avoid charges of discrimination by proving that the practices have a "significant relationship to a manifest business objective."

The bill also specifies additional types of evidence that a court may consider on this issue, including "testimony of individuals with knowledge of the practice."

Second, the bill provides expressly that nothing in the measure should be interpreted even "to encourage" employers to adopt quotas, let alone require them to do so.

Third, the bill requires the plaintiff to prove which specific practices are responsible for a disparate impact in all cases, except where the employer does not have the relevant records or has concealed, destroyed or refused to make them available.

Fourth, the bill provides specifically that it does not overrule existing cases involving "comparable worth." This change is intended to allay concerns that this bill will require courts to adopt the "comparable worth" theory in cases alleging pay discrimination.

Fifth, the bill permits more people to challenge consent decrees in job discrimination cases in the future, and it strengthens the notice requirements for such decrees.

Sixth, the bill revises the "mixed motive" provision by eliminating both compensatory and punitive damages where an employer proves that the same job action would have taken place, even in the absence of discrimination.

Seventh, the bill provides that when an unsuccessful challenge to a court order or consent decree is brought by a third party, the court will have discretion to determine how attorney's fees should be assessed.

The conference committee bill also includes two provisions that were the subject of considerable discussion when the legislation was before the Senate in July.

First, it includes the text of the amendment proposed on the Senate floor by Senator PRYOR, confirming that the mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex or national origin does not create a violation of title VII.

Second, the conference committee bill includes a proposal made by Senator BOREN to limit punitive damages against any employer under title VII to $150,000, or the amount of compensatory damages, whichever is greater.

A summary of the compromise has been sent to every Senator. These changes demonstrate that the sponsors of this legislation have done as much as possible to meet any reasonable concern raised about the bill.

Now, it is time to act on this important legislation.

But once again, we have seen the President's advisers urge him to take a confrontational course, at the expense of the public interest. I hope that the President will reject this misguided advice and heed the call for justice on the job for millions of working men and women.

I urge my colleagues to vote for the Civil Rights Act of 1990 when it comes before the Senate, and I urge President Bush to sign it.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

## FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5114, the Foreign Operations appropriations bill, and that when the committee amendment found on page 10, line 20 through page 11, line 17 is considered, there be 30 minutes of debate on the amendment equally divided and controlled between Senators MIKULSKI and HUMPHREY, with no amendment to the committee amendment in order, at the conclusion of which there be a motion to invoke cloture on the committee amendment with the live quorum and the filing of the motion as required under rule XXII waived; with the further proviso that if cloture is invoked on the committee amendment, the amendment be deemed agreed to; and if cloture is not invoked, the amendment will be deemed stricken.

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

The clerk will report the bill. The legislative clerk read as follows:

A bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5114

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, namely:

### TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

#### FUNDS APPROPRIATED TO THE PRESIDENT

#### INTERNATIONAL FINANCIAL INSTITUTIONS

#### CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, [$50,000,795] *$110,592,409,* to remain available until expended: *Provided, That 25 per centum of the funds appropriated under this heading shall be withheld from obligation until the Secretary of the Treasury submits a report to the Committees on Appropriations which describes in detail the actions the International Bank for Reconstruction and Development has taken during the fiscal year 1990, and the actions it is contemplating for the fiscal year 1991, in support of energy and forestry conservation and family planning activities.*

#### LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed [$1,619,692,365] *$2,899,610,241.*

#### CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $1,064,149,500, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That, before obligating funds made available under this heading, the President shall reduce from the amount obligated the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human needs since January 1, 1990: *Provided further,* That such funds withheld from obligation may be obligated only if the President certifies that it is in the national interest of the United States to do so: *Provided further,* That fifteen days prior to the obligation of such funds for the International Development Association, the President shall report his certification to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

#### CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $40,330,972, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

#### CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the paid-in share portion of the increase in capital stock, $57,449,324, and for the United States share of the increases in the resources of the Fund for Special Operations, $20,850,016, to remain available until expended: *Provided,* That the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to use the voice and vote of the United States to oppose any assistance by the Bank to any recipient of assistance who refuses to agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality against any member country, firm or person interested in providing such goods or services.

#### LIMITATION ON CALLABLE CAPITAL SUBCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,235,076,561.

#### [INTER-AMERICAN INVESTMENT CORPORATION

[For payment to the Inter-American Investment Corporation by the Secretary of the Treasury, $13,000,000, for the United States share of the capital stock of the Corporation, to remain available until expended.]

#### CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), [$243,900,000] *$271,382,000,* to remain available until expended.

#### CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,451,500, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended.

#### CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $10,135,766, to remain available until expended.

#### LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,389,294.

#### CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, [$70,020,600] *$56,820,600,* for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended.

#### LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $163,381,400.

#### CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

For payment to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the International Monetary Fund, $10,602,000 to remain available until expended.

#### INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973,

[$268,750,000] *$284,730,000: Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: [$104,000,000] *$109,000,000* for the United Nations Development Program; $75,000,000 for the United Nations Children's Fund, of which amount 75 per centum (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum of which shall be expended within thirty days from the start of the United Nations Children's Fund fourth quarter of operations for 1991; $2,000,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Development Fund for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $200,000 for the Intergovernmental Panel on Climate Change; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $500,000 for the World Meterological Organization Special Fund for Climate Studies; $23,555,000 for the International Atomic Energy Agency; $15,800,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $750,000 for the Convention on International Trade in Endangered Species; [$220,000] *$450,000* for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $500,000 for the United Nations Industrial Development Organization Investment Promotion Service; $10,000,000 for the Organization of American States; $6,500,000 for the United Nations Afghanistan Trust Fund; $1,000,000 for the International Tropical Timber Organization; $1,000,000 for the World Food Program; $680,000 for the International Union for the Conservation of Nature; *$500,000 for the Tropical Forestry Action Plan; $250,000 for the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat;* and [$20,000,000] *$30,000,000* for the United States contributions to the replenishment of the International Fund for Agricultural Development: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further, That funds appropriated under this heading may be made available for the Tropical Forestry Action Plan (TFAP) only if the Secretary of State determines (and so reports to the Congress) that (1) the TFAP has been reorganized, with an international steering committee and secretariat independent of the Food and Agriculture Organization, and includes the participation of a broad range of experts in its administration, (2) the responsibilities of TFAP have been broadened to include areas outside the forestry sector, and (3) procedures exist to ensure increased participation in national TFAP plans by affected populations and interested individuals and organizations outside the forestry sector.*

## TITLE II—BILATERAL ECONOMIC ASSISTANCE

### FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1991, unless otherwise specified herein, as follows:

### AGENCY FOR INTERNATIONAL DEVELOPMENT

### AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $481,635,000: *Provided,* That not less than $5,000,000 shall be provided for new development projects of private entities and cooperatives for dairy development: *Provided further,* That not less than $10,000,000 shall be provided for the Vitamin A Deficiency Program [: *Provided further,* That not less than $375,000 shall be provided to support continued United States participation in the Associate Professional Officers Program of the international food agencies: *Provided further,* That in addition to the funds provided under the heading "International Organizations and Programs", not less than $5,000,000 of the funds appropriated under this paragraph shall be made available for United States contributions to the replenishment of the International Fund for Agricultural Development.]

### POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $250,000,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further, That notwithstanding the previous proviso, not less than $15,000,000 of the funds appropriated under this heading shall be made available only for the United Nations Population Fund for voluntary family planning activities consistent with the Universal Declaration of Human Rights: Provided further, That none of the funds made available to the United Nations Population Fund shall be used to pay for the performance of abortions: Provided further, That the United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds: Provided further, That none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China: Provided further, That if any such funds are used for programs in the People's Republic of China, the United Nations Population Fund shall refund to the United States the full amount made available to it under this heading: Provided further, That the amount of United States funds made available to the United Nations Population Fund under this heading shall be reduced by the amount of any increase in funding from other sources for the current five year United Nations Population Fund program in the People's Republic of China: Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act*: Provided further, That notwithstanding any other provision of this or any other Act which provides authority to use funds appropriated under this heading for purposes other than to carry out the provisions of section 104(b) of the Foreign Assistance Act of 1961, funds appropriated under this heading shall be made available only to carry out the provisions of that section: Provided further, That of the funds appropriated under this heading, not less than 65 per centum shall be made available for the Office of Population of the Agency for International Development: Provided further, That in addition to funds otherwise available for such purposes, of the funds appropriated under this heading up to 5 per centum may be used for operating expenses for the administration of family planning assistance programs.*

### HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $135,000,000: *Provided,* That of the funds appropriated under this heading not less than $5,000,000 shall be provided for activities relating to the control, prevention, and eradication of River Blindness: [*Provided further,* That of the funds appropriated under this heading $3,500,000 shall be provided as a contribution to the Pan American Health Organization for funding for the Gorgas Memorial Institute of Tropical and Preventive Medicine in Panama.]

### INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $52,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds appropriated under this heading [$26,000,000] *$21,000,000* shall be provided directly to the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization*: Provided further, That funds appropriated under this heading may be made available notwithstanding any provision of law (except section 620A of the Foreign Assistance Act of 1961 and sections 512 and 556 of this Act) which restricts assistance to foreign countries.*

### CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $100,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $134,201,000: *Provided,* That not less than $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: [*Provided further,* That $5,400,000 of the funds appropriated under this heading shall be provided for Soviet and East European research and training under the Department of State's Title VIII program on Soviet and regional studies, notwithstanding any other provision of law: *Provided further,* That $10,000,000 of the funds appropriated by this paragraph shall be made available to carry out section 206 (relating to the Center for Cultural and Technical Interchange Between North and South) of the House engrossed amendment (as passed the House of Representatives on May 24, 1990) to the bill S. 2364, and that section is hereby enacted:] *Provided further, That not less than $67,100,000 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: Provided further, That in fiscal year 1991 the Agency for International Development shall initiate three new bilateral projects in basic primary and secondary education, at least two of which shall be initiated in sub-Saharan Africa: Provided further, That not less than $20,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program (for the Cooperative Association of States for Scholarships and the East Central European Scholarship Program), of which $3,000,000 shall be available, notwithstanding any other provision of law, for students from Poland and Hungary.*

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $152,223,000: *Provided,* That not less than $7,500,000 shall be made available only for cooperative projects among the United States, Israel and developing countries of which not less than $5,000,000 shall be made available for the Cooperative Development Program, and of which not less than $2,500,000 shall be made available for cooperative development research projects: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: *Provided further,* That not less than $5,000,000 of the funds appropriated under this heading or under the heading "Sub-Saharan Africa, Development Assistance", shall be made available for assistance in support of elephant conservation and preservation: *Provided further,* That not less than $20,000,000 shall be for the Office of Energy of the Agency for International Development: *Provided further,* That not less than $75,000,000 of the funds appropriated under this heading shall be made available for environment and global warming activities: *Provided further,* That funds made available under this heading for the purposes of the earmarks contained under this heading and those contained in sections 533 and 534 of this Act may be used to meet the funding requirements of the previous proviso: *Provided further,* That not less than $150,000 shall be for technical assistance and training programs for Soviet and Czechoslovakian statisticians and economists administered by the Bureau of Labor Statistics, notwithstanding any other provision of law.]

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,624,000.

*MICRO-ENTERPRISE DEVELOPMENT*

*Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: Provided, That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: Provided further, That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall reduce the amount earmarked for assistance for micro-enterprises by an equal amount.*

*SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE*

[For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $800,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise available for such purposes: *Provided,* That the authorities contained under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), shall be applicable to amounts appropriated under this heading until an Act authorizing assistance for such purposes for the fiscal year 1991 is enacted into law: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading shall be made available only to assist activities supported by the Southern Africa Development Coordination Conference: *Provided further,* That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1992.

*For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, as enacted by this Act, $800,000,000, to remain available until September 30, 1992: Provided, That up to $3,500,000 of the funds appropriated under this heading may be made available, notwithstanding any other provision of law, to support the participation of disadvantaged South Africans in private enterprise development in South Africa: Provided further, That such assistance provided to support the participation of disadvantaged South Africans in private enterprise shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa: Provided further, That up to $50,000,000 of the funds appropriated under this heading may be made available to assist activities supported by the Southern Africa Development Coordination Conference: Provided further, That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961.*

*Title III of S. 2944, as reported by the Committee on Foreign Relations of the Senate on July 31, 1990, is hereby enacted into law: Provided, That the enactment of title III of S. 2944 shall not include section 496(n) (relating to local currency generations, as contained in section 302(a) of that title), and all subsequent subsections of section 496 shall be redesignated accordingly.*

ZAIRE

[Funds appropriated by this Act to carry out chapter 1 of part I which are allocated for Zaire shall be made available only through private and voluntary organizations.]

*None of the funds appropriated by this Act to carry out chapter 10 of part I shall be made available to the Government of Zaire: Provided, That this provision shall not be applicable to assistance provided through nongovernmental organizations, either directly or with appropriate ministries or departments of the Government of Zaire, or made available from funds made available for child survival activities.*

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided,* That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, to provide humanitarian assistance through international relief agencies *and United States private and voluntary organizations* to children within Cambodia: *Provided,* That none of the funds made available under this heading may be made available, directly or indirectly, for the Khmer Rouge.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, for medical and related assistance, including the provision of prostheses and vocational rehabilitation and training, for civilians who have been injured as a result of civil strife and warfare.

*ASSISTANCE FOR LATVIA, LITHUANIA, AND ESTONIA*

*Notwithstanding any other provision of law, of the aggregate of the funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, $15,000,000 shall be made available for assistance through United States private and voluntary organizations for the purpose of assisting organizations and individuals in Latvia, Lithuania, and Estonia to foster the development of their private agricultural, industrial, and commercial sectors.*

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a

higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided*, That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

[APPROPRIATE TECHNOLOGY

[Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, not less than $2,000,000 shall be available for Appropriate Technology International: *Provided*, That these funds shall be in addition to $3,000,000 in funds available to Appropriate Technology International under its existing cooperative agreement with the Agency for International Development: *Provided further*, That Appropriate Technology International shall qualify, along with any cooperative development organization, for development assistance funds appropriated or otherwise made available by this Act for United States private and voluntary organizations.]

HUMANITARIAN ASSISTANCE FOR ROMANIA

[(a) The Congress finds that—

[(1) from 20,000 to 200,000 children live in public institutions in Romania, having been abandoned by parents too poor to provide their children with food, clothing, and other basic needs;

[(2) children deposited in these "Homes for the Deficient and Unsalvagable" suffer from hunger, acquired immune deficiency syndrome (AIDS) and other diseases, and neglect, to the extent that it is not uncommon for 25 percent of the children in such an institution to die each year;

[(3) these terrible conditions result from family planning policies of the Ceausescu government which prohibited all forms of contraception and from economic policies which made it impossible for parents to provide the bare necessities for their children and which provided woefully inadequate resources to the institutions to which many parents were forced to abandon their children;

[(4) the United Nations Children's Fund (UNICEF), World Vision, and other international and private and voluntary organizations are working with the new government in Romania to reverse the effects of these policies; however, still greater efforts are needed by that government and the world community if these children are to be afforded minimum levels of health care and to see to it that such circumstances are never again to be repeated; and

[(5) it is in the national interest of the United States, and consistent with the humanitarian spirit of the American people, to support efforts to address the anticontraception policies of the Ceausescu regime and the legacy of health and social problems that were its result.

[(b) Of the aggregate of the funds appropriated by the preceding paragraphs of this title to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Sub-Saharan Africa, Development Assistance"), not less than $3,000,000 shall be made available for humanitarian assistance for Romania of which $1,500,000 shall be for activities related to:

[(1) acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children including the provision of food, medicines, and training of personnel;

[(2) improving the facilities available for the care of abandoned children; and

[(3) facilitating family reunification or adoption of abandoned children: *Provided*, That funds provided under this section may be made available notwithstanding any provision of law which restricts assistance to foreign countries: *Provided further*, That $1,500,000 shall be for family planning assistance, subject to the following:

[(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 215(b)(f) and section 535 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall apply to the funds made available pursuant to this subsection.

[(B) Any recipient of these funds under this heading shall be required to maintain the funds made available pursuant to this subsection in a separate account and not commingle them with any other funds.

[(C) Any agreements entered into by the United States to obligate funds under this subsection shall expressly state that the full amount granted by such agreements will be refunded to the United States if any United States funds are used for any family planning programs in countries other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.]

*Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Sub-Saharan Africa, Development Assistance"), not less than $3,000,000 shall be made available, notwithstanding any provision of law which restricts assistance to foreign countries, for humanitarian assistance for Romania. Of this amount—*

*(1) $1,500,000 shall be made available for activities related to—*

*(A) acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children, including the provision of food, medicine, and training of personnel;*

*(B) improving the facilities available for the care of abandoned children; and*

*(C) facilitating family reunification or adoption of abandoned children, including training of professional adoption specialists; and*

*(2) $1,500,000 shall be made available for family planning assistance, subject to the following:*

*(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 and section 535 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall be applicable to funds made available under this paragraph.*

*(B) Any recipient of funds under this paragraph shall be required to maintain them in a separate account and not commingle them with any other funds.*

*(C) Each agreement entered into by the United States to obligate funds made available under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning program in a country other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.*

PRIVATE SECTOR REVOLVING FUND

During fiscal year 1991, total commitments to guarantee loans shall not exceed [$12,500,000] *$62,500,000* of contingent liability for loan principal*: Provided, That, notwithstanding any other provision of law, the authority of section 108(i) of the Foreign Assistance Act of 1961 may be used to provide up to $15,000,000 in loan guarantees for any one project: Provided further, That, notwithstanding any other provision of law, there shall be held as a reserve in the revolving fund account established pursuant to section 108 of that Act only such amounts as are estimated to be sufficient to cover the expected net liabilities on loan guarantees outstanding under the program authorized by section 108(i).*

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, [$23,000,000] *$35,000,000.*

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $40,000,000, to remain available until expended: *Provided*, That not less than $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,341,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $435,000,000[: *Provided*, That not more than $15,000,000 (except that payment may be made under this limitation only for those categories of services for which charges have been made under Foreign Affairs Administrative Support both in prior years and in the current year) of this amount shall be for Foreign Affairs Administrative Support.]

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, [$31,384,000] *$33,884,000*, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding section 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided*, That up to 3 per centum of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further*, That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further*, That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than two hundred and forty at September 30, 1991: *Provided further, That $1,000,000 of the funds appropriated under the heading "Assistance for Eastern Europe" shall be made available for the Office of the Inspector General of the Agency for International Development to carry out audit and other responsibilities with regard to assistance programs for Eastern Europe.*

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided*, That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further*, That guarantees issued under this heading shall guarantee 100 per centum of the principal and interest payable on such loans: *Provided further*, That no loans guaranteed under this heading shall be issued or held by the Federal Financing Bank: *Provided further*, That the limitation under this heading on total guarantee commitments which may be made in fiscal year 1991 shall not include the additional authority to enter into guarantee commitments provided in Public Law 101-302: *Provided further*, That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, and notwithstanding the dollar limitation contained in that section, the borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1991: *Provided further*, That section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992": *Provided further*, That section 223(j) of the Foreign Assistance Act of 1961 shall not apply to commitments to guaranty loans, for which authority is provided under this heading, for Chile and Poland.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, [$3,460,000,000] *$3,080,000,000*: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later: *Provided further, That of the funds made available under this heading for Israel, during the period of the Desert Shield emergency up to $200,000,000 may be used by Israel, notwithstanding section 531(e) of the Foreign Assistance Act of 1961, for any of the purposes for which military assistance is provided: Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That of the funds appropriated under this heading and allocated for El Salvador, up to $1,500,000 (or the equivalent in local currencies generated with funds provided to El Salvador under this heading) may be made available, notwithstanding section 660 of the Foreign Assistance Act of 1961, to assist the Government of El Salvador's Special Investigative Unit, including for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further, That none of the funds appropriated under this heading may be made available for El Salvador's Special Investigative Unit until 15 days after receipt by the Committees on Appropriations of a report from the Secretary of State which transmits a plan of the Government of El Salvador to transfer the Unit from military to civilian control, including the time period within which this transfer is to occur and the actions that will be taken to effect such a transfer: Provided further*, That section 534(e) of the Foreign Assistance Act of 1961 is amended by (1) striking "fiscal year 1990" and inserting in lieu thereof "fiscal year 1991"; and (2) striking "September 30, 1990" and inserting in lieu thereof "September 30, 1991": [*Provided further*, That not less than $35,000,000 shall be made available for Jordan:] *Provided further*, That not less than $12,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further*, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus, including bicommunal projects and confidence building measures designed to reduce tensions and to promote peace and cooperation between the two communities on Cyprus, with highest priority given to the resettlement of the Famagusta/Varosha area under the auspices of the United Nations: *Provided further, That not less than $20,000,000 of the funds appropriated under this heading shall be made available for Morocco: Provided further, That of the funds appropriated under this heading, up to $125,000,000 may be used in accordance with section 3(b) of the International Narcotics Control Act of 1989 (Public Law 101-231) notwithstanding section 531(e) of the Foreign Assistance Act of 1961: Provided further*, That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further*, That prior to the initial obligation of assistance for El Salvador from funds appropriated under this heading, the President shall report to the Congress on the extent to which the Government of El Salvador has made demonstrable progress in settling outstanding expropriation claims of American citizens in compliance with the judgment of the Supreme Court of El Salvador: *Provided further, That during fiscal years 1991 and 1992, of the local currencies generated from funds made available under this heading for El Salvador by this Act and prior appropriations Acts, the United States and El Salvador shall jointly program the El Salvador colones equivalent of a total of $10,000,000 for the purpose of retiring the debt owed by the University of Central America to the Inter-American Development Bank: Provided further*, That not more than $50,000,000 of the funds appropriated under this heading may be made available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $50,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: [*Provided further*, That up to $20,000,000 of the funds appropriated under this heading may be made available to provide grant assistance to capitalize an endowment to be used by nongovernmental organizations to enable such organizations to purchase the discounted commercial debt of Mexico as part of a debt-for-development exchange: *Provided further*, That a grant for the purposes of such an endowment may be made only if nongovernmental contributions have been made in an equal amount to capitalize the endowment: *Provided further*, That such debt-for-development exchanges for Mexico shall support the objectives of chapter 1 of part I of the Foreign Assistance Act of 1961:] *Provided further*, That funds made available under this heading shall remain available until September 30, 1992: *Provided further*, That of the funds appropriated under this heading, not less than $7,500,000 shall be available only for Lebanon.

[INTERNATIONAL FUND FOR IRELAND

[For necessary expenses to carry out the provisions of chapter 4 of part II, $20,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until expended.]

MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961, [$160,000,000] *$100,000,000*, which shall be available for the Multilateral Assistance Initiative for the Philippines: *Provided*, That not less than 75 per centum of the funds appropriated under this heading

shall be made available for project and sector activities consistent with the purposes of sections 103 through 106 of such Act: *Provided further,* That the President shall seek to channel through indigenous and United States private voluntary organizations and cooperatives not less than $20,000,000 of the funds appropriated under this heading and of the funds appropriated and allocated for the Philippines to carry out sections 103 through 106 of such Act: *Provided further, That up to $100,000,000 of the funds appropriated to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 may be transferred to and consolidated and merged with the funds appropriated under this heading notwithstanding the limitations on transfers between accounts contained in sections 109 and 610 of such Act: Provided further,* That funds made available under this heading shall remain available until September 30, 1992: *Provided further,* That none of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

ASSISTANCE FOR EASTERN EUROPE

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, [$418,675,000] *$320,000,000,* to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance for Eastern Europe as follows—

(1) [$80,000,000] *$35,000,000* shall be provided for technical assistance and training, including such activities as support for labor activities, scholarship programs, [medical assistance, and support for private sector development] *and medical assistance;*

(2) [$30,000,000] *$15,000,000* shall be provided for technical and other assistance to support [the] housing sectors [in East European countries;]

(3) $75,000,000 shall be provided for environment and energy activities, *with emphasis on assistance in developing policies encouraging, and providing incentives for, end-use energy efficiency (including preparation of least-cost energy plans), conservation, and reliance on renewable energy resources;*

(4) [$20,000,000] *$7,500,000* shall be provided for activities to foster democratic pluralism, *including support for the newly elected parliaments in Eastern Europe through, among other things, exchanges involving members, staff, and support agencies of Congress and the parliaments in Eastern Europe;*

(5) [$113,675,000] *$72,500,000* shall be provided for the Polish-American and Hungarian-American Enterprise Funds; and

(6) [$100,000,000] *$65,000,000* shall be provided for other private enterprise activities, *with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of financial institutions (such as stock markets, insurance companies and banks), creation and management of private business organizations, and privatization of state business organizations; and*

*(7) $50,000,000 shall be provided for agricultural activities, with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of agricultural financial institutions and marketing systems, creation and management of agribusiness organizations (including farmer-owned cooperatives), and privatization of state farms, agribusiness and credit institutions.*

(b)(1) Funds allocated by this Act for any of the paragraphs under subsection (a) may be reallocated for the purposes of any other such paragraph if, at least 15 days prior to such reallocation, the Committees on Appropriations are notified in accordance with regular notification procedures.

(2) None of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

*(3) Not more than 50 per centum of the funds provided under subsections (a) (1) and (3) which are made available for environment and health-related assistance activities may be made available for any single country.*

(c) Funds made available for the Polish-American and Hungarian-American Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

*(d) Up to $1,000,000 of the funds appropriated under this heading may be used for the administrative expenses incurred by the Agency for International Development in connection with administering programs for Eastern Europe: Provided, That the authority of this subsection shall supersede for fiscal year 1991 the provisions of section 803 of the Support for East European Democracy (SEED) Act of 1989.*

*(e) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.*

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $13,000,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $25,000,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1991 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $40,000,000.

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $250,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $186,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $150,000,000*: Provided, That of the funds appropriated under this heading not more than $117,792,000 may be obligated or expended until 15 days after the receipt by the Committees on Appropriations of a report from the Secretary of State describing measures being taken to correct management deficiencies in the Bureau of International Narcotics Matters identified in the report of the Inspector General of the Department of State dated January 1990.*

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $485,648,000: *Provided,* That not less than $45,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further, That not less than $1,000,000 shall be available for Tibetan refugees: Provided further, That not less than $1,500,000 shall be available for the Thai-Cambodian border protection program: Provided further, That not less than $1,500,000 shall be available for the antipiracy program: Provided further, That not less than $5,000,000 shall be available for a United States contribution to the Thai Village Program: Provided further, That not less than $10,000,000 shall be available for implementation of the Comprehensive Plan of Action: Provided further,* That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That section 584(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended by striking "during the period beginning on March 22, 1988, and ending on

September 30, 1990", and inserting "on or after March 22, 1988": *Provided further,* That the ninth proviso under Migration and Refugee Assistance, Department of State, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 is amended by striking "and before the end" and all that follows through "subsection (a)(1)(B) of such section": *Provided further,* That effective as of December 22, 1987, section 584(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202) is amended by striking "the principal alien involved is unmarried and": *Provided further,* That not more than [$8,250,000] *$8,528,000* of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That of the funds appropriated under this heading, $250,000 shall be made available, notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict: *Provided further, That the transfer of any funds appropriated under this heading to programs for refugee admissions shall be subject to the regular notification procedures of the Committees on Appropriations.*

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), [$35,000,000] *$26,500,000,* to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $12,026,000.

## TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,196,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further, That not less than $1,000,000 of the funds appropriated under this heading shall be made available for developing, initiating, conducting and evaluating courses and other programs for training foreign civilian and military officials in managing and administering military establishments and budgets, and for training foreign military and civilian officials in creating and maintaining effective military judicial systems and military codes of conduct, including observance of internationally recognized human rights: Provided further, That none of the funds appropriated under this hearing shall be available for Malaysia, Zaire, Liberia, Sudan, and Somalia: Provided further, That section 541 of the Foreign Assistance Act of 1961 is amended by inserting the following sentence immediately after the first sentence: "Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense if the military education and training would (i) contribute to responsible defense resource management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, or (iii) improve military justice systems and procedures in accordance with internationally recognized human rights.".*

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, [$4,229,920,800] *$4,692,268,056: Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, [not less than $50,000,000 shall be available for grants only for Jordan,] and not less than $1,300,000,000 shall be available for grants only for Egypt[: *Provided further,* That of the funds made available for Egypt not less than $100,000,000 may be used for repayments pursuant to section 23(e) of the Arms Export Control Act:] *Provided further, That of the funds appropriated by this paragraph for Israel $1,695,000,000 shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later. Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development [: *Provided further,* That grants provided with funds made available by this paragraph shall be implemented by grant documents which do not include a requirement to repay the United States Government, notwithstanding any requirement in section 23 of the Arms Export Control Act:] Provided *further, That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a), and shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: Provided further, That none of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed a grant agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds.*

[For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $405,000,000: *Provided,* That any funds made available by this paragraph, except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on Foreign Military Financing Program loans shall be not less than 5 per centum per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures: *Provided further,* That during fiscal year 1991, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $405,000,000.

[Funds appropriated under this heading that are allocated to Greece and Turkey shall be provided according to a 7 to 10 ratio: *Provided,* That if Turkey receives any funds under this heading on a grant basis then not less than $30,000,000 of the funds provided for Greece shall be made available as grants: *Provided further,* That funds]

*Funds* previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act, shall be used at any time hereafter only to finance sales made under the Arms Export Control Act: [*Provided further,* That uncommitted balances of loans for the Philippines made under the authority of section 23 of the Arms Export Control Act may be committed to a contract only until January 1, 1991] *Provided further, That the second sentence of section 505(f) of the Foreign Assistance Act of 1961 is amended by striking out "1975" and inserting "1985" in lieu thereof: Provided further, That funds appropriated under this heading may be used to provide aircraft (including helicopters) notwithstanding any provision of law that would require them to be provided on a lease or loan basis: Provided further,* That of the funds appropriated under this heading not more than $2,887,000 shall be available for non-lethal assistance for Guatemala: *Provided further,* That funds made available under this heading for Guatemala shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia or Somalia: *Provided further,* That not more than $300,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to nonlethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during

the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That not more than $27,920,800 of the funds appropriated under this heading may be obligated for necesary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That of the funds appropriated under this heading, *not less than $52,000,000 shall be available for Morocco,* [not more than $301,000,000] *$381,500,000 only* shall be available for Greece, [not more than $430,000,000] *$545,000,000* shall be available for Turkey, [and not more than $95,000,000 shall be available for Portugal.]

FOREIGN MILITARY SALES DEBT REFORM

Funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1991.

GUARANTY RESERVE FUND

If during fiscal year 1991 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

*(a)* Not to exceed [$278,796,000] *$350,000,000* may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1991, to remain available for obligation until September 30, 1993: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

*(b)(1) To the extent provided for in paragraph (2) of this subsection, the President is authorized notwithstanding any other provision of law to finance the purchase by Israel of defense articles and defense services acquired by the Secretary of Defense under chapter 5 of the Arms Export Control Act under terms and conditions pursuant to which Israel shall be required to pay one-third of the value thereof by September 30, 1991, an additional one-third of the value thereof by September 30, 1992, and the final one-third of the value thereof by September 30, 1993.*

*(2) Of the funds available for Israel under this Act to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, not less than $100,000,000 shall be available to finance the amount required to be paid by Israel in connection with purchases under the authority of paragraph (1) of this subsection during fiscal year 1991.*

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $32,800,000.

## TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $750,000,000: *Provided,* That there are hereby appropriated $150,000,000 to be made available for tied aid grants in accordance with section 15 of the Export-Import Bank Act of 1945, as amended, or, at the discretion of the Chairman of the Export-Import Bank, in accordance with the Trade and Development Enhancement Act of 1983, as amended: *Provided further,* That there are hereby appropriated [$8,000,000] *$25,000,000* to be made available for interest subsidy payments in accordance with the Export-Import Bank Act of 1945, as amended: *Provided further,* That the funds made available under this heading for both grant and subsidy purposes, including tied aid financed in part through the combined use of concessional financing or grants offered by the Agency for International Development, shall be subject to the regular notification procedures of the Committees on Appropriations of the House of Representatives and the Senate: *Provided* [That $150,000,000 of the funds made available for tied aid grant purposes and $8,000,000] *$25,000,000* of the funds made available for interest subsidy payments shall be subject to the limitation on the gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That the Bank shall use all amounts appropriated to carry out the interest subsidy program to make commitments to commercial lending institutions and other lenders, subject only to the availability of qualified lenders under the program: *Provided further,* That during the fiscal year 1991, total commitments to guarantee loans shall not exceed $10,599,064,000 of contingent liability for loan principal: *Provided further, That the authorities made available under this title for the Export-Import Bank may be used by the Bank, notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, or any agency or national thereof, except that no such country shall be eligible until that country has been accorded most-favored-nation trade status in accordance with the criteria and procedures established by section 402 of the Trade Act of 1974 (commonly referred to as the "Jackson-Vanik amendment"): Provided further, That section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking out "1990" and inserting in lieu thereof "1992": Provided further,* That the direct loan, tied aid grant and interest subsidy authority provided under this heading shall remain available until September 30, 1992.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $23,171,000 (to be computed on an accrual basis) shall be available during fiscal year 1991 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $35,000,000.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1991 total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Central America pursuant to the authorities of section 224 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided,* That section 224(c) of the Foreign Assistance Act of 1961, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991".

During fiscal year 1991, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Poland, pursuant to the authorities of section 225 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided,* That notwithstanding section 225(b) of such Act guarantees provided under this paragraph may be available for medium-term guarantees and insurance extended by the Export-Import Bank.

## TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided [further],* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. *(a)* Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1991, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations *: Provided further, That the authority of this subsection shall not be available to reobligate funds previously appropriated to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961.*

*(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated in accordance with amendments of applicable grant or loan agreements, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: Provided, That the Appropriations Committees of both Houses of the Congress are notified fif-*

*teen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committee on Appropriations.*

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I, [section 667,] and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I, [section 667,] and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act *for Nicaragua, and* for any narcotics-related assistance in Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment [or unless such commitment is necessitated by an emergency and the Committees are notified within three days after the commitment is made with an explanation of the emergency circumstances: *Provided further*, That with respect to assistance provided under chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, the requirements of this section for notification prior to reprogramming funds shall apply only for a project, program, or activity (1) which was not justified in Congressional presentation documents for the current fiscal year and for which assistance was not provided in the preceding fiscal year, (2) the purpose for which is significantly different

from the purpose previously justified, or (3) the assistance would cause the total amount allocated for a country from such chapter to exceed the amount allocated for that country from such chapter (or would be in excess of the total amount allocated from such chapter) in the report required by section 653(a) of the Foreign Assistance Act of 1961]: *Provided further, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.*

CONSULTING SERVICES

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization (or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it), Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1992.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 527. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 528. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 529. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 530. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

ASSISTANCE FOR EL SALVADOR

[SEC. 531. (a) STATEMENT OF POLICY.—It shall be the policy of the United States—

[(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hostilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

[(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

[(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

[(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

[(B) the actions of each side that affect the basic human rights of the Salvadoran people.

[(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

[(1) FISCAL YEAR 1991.—

[(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

[(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

[(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (g), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

[(2) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—At the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect to the obligation of any funds so transferred.

[(3) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

[(4) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

[(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The determination described in this subsection is a determination by the President that—

[(1) the representatives of the FMLN—

[(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

[(B) are rejecting or otherwise failing to support an active role for the Secretary

General of the United Nations in those negotiations;

[(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress;

[(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN; or

[(4) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

[(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

[(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

[(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

[(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the eight murders at the University of Central America on November 16, 1989; or

[(4) the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

[(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

[(f) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, military assistance for fiscal year 1991 may be delivered to the armed forces of El Salvador only with the prior approval of the President of El Salvador.

[(g) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this Act and on March 1, 1991, the President shall submit to the Congress a report describing—

[(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

[(2) the status of the negotiations;

[(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

[(4)(A) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people;

[(B) progress made by the Government of El Salvador toward—

[(i) the establishment of an effective judicial system, including the establishment of an independent, civilian investigative service;

[(ii) ensuring freedom of the press and assembly; and

[(iii) military reform, including the establishment of an officer promotion system based on merit and professional competence, respect for human rights, and respect for civilian control over the armed forces;

[(C) the effects on the civilian population of El Salvador of economic sabotage and other acts of violence committed against civilian targets by the FMLN; and

[(D) the status of investigations into the politically motivated murders of prominent political, religious, labor, and other officials in recent years, and the extent to which the armed forces of El Salvador and the FMLN are each cooperating in those investigations.

[(h) SUPPORT FOR DEMOCRACY PROGRAM.—

[(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

[(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

[(B) establish an effective judicial system;

[(C) facilitate the free and open exchange of political views;

[(D) provide for monitoring and other activities in support of free and fair elections; and

[(E) increase respect for basic civil and human rights.

[(2) ELECTION MONITORING.—Of the amount made available to carry out this subsection, $2,000,000 may be used only for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the Secretary General of the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

[(3) ASSISTANCE.—Up to $10,000,000 of the funds appropriated under the heading "Economic Support Fund", may be used to carry out this subsection.

[(i) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

[(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

[(A) which—

[(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

[(ii) in the case of the Senate, is reported by the Committee on Foreign Relations, during the thirty-day period beginning on March 1, 1991;

[(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

[(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

[(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

[(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foriegn Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

[(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than four hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

[(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

[(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

[(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

[(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the

time, in the same manner, and to the same extent as in the case of any other rule of that House.

[(j) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).]

*SEC. 531. (a) STATEMENT OF POLICY.—United States military assistance to the Government of El Salvador shall seek three principal foreign policy objectives, as follows: (1) to promote a permanent settlement and cease-fire to the conflict in El Salvador, with the Secretary General of the United Nations serving as an active mediator between the opposing parties; (2) to foster greater respect for basic human rights, and the rule of law; and (3) to advance political accommodation and national reconciliation.*

*(b) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—Of the funds available for United States military assistance for fiscal year 1991, not more than $85,000,000 shall be made available for El Salvador.*

*(c) PROHIBITION OF MILITARY ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States military assistance may be furnished to the Government of El Salvador if the President determines and reports in writing to the Congress that—*

*(A) after he has consulted with the Secretary General of the United Nations, the Government of El Salvador has declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict of El Salvador;*

*(B) the Government of El Salvador has rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;*

*(C) the Government of El Salvador has rejected a plan for the settlement of the conflict which—*

*(i) has been developed by the Secretary General of the United Nations taking into account the Caracas Accord of May 21, 1990 between the Government of El Salvador and FMLN;*

*(ii) includes a proposal for an internationally monitored cease-fire; and*

*(iii) has been accepted, within 60 days from its announcement, by the FMLN and is being complied with by the FMLN;*

*(D) the Government of El Salvador has failed to conduct a thorough and professional investigation into, and prosecution of those responsible for the eight murders at the University of Central America on November 16, 1989; or*

*(E) the military and security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.*

*(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.*

*(d) WITHHOLDING OF MILITARY ASSISTANCE.—(1) IN GENERAL.—Fifty percent of the total United States military assistance allocated for El Salvador for fiscal year 1990 and prior fiscal years which has not been obligated, expended, or otherwise made available to the Government of El Salvador as of the date of enactment of this Act, and fifty percent of all military assistance allocated for El Salvador for fiscal year 1991, shall be withheld from obligation or expenditure (as the case may be) except as provided in paragraphs (2) and (3).*

*(2) RELEASE OF ASSISTANCE.—The United States military assistance withheld pursuant to paragraph (1) may be obligated and expended only if the President determines and reports in writing to the Congress that—*

*(A) after he has consulted with the Secretary General of the United Nations, the representatives of the FMLN—*

*(i) have declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict in El Salvador, or*

*(ii) have rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;*

*(B) the FMLN has rejected a plan for the settlement of the conflict which—*

*(i) has been developed by the Secretary General of the United Nations taking into account the Caracas Accord of May 21, 1990 between the Government of El Salvador and the FMLN,*

*(ii) includes a proposal for an internationally monitored cease-fire, and*

*(iii) has been accepted, within 60 days from its announcement, by the Government of El Salvador and is being complied with by the Government of El Salvador;*

*(C) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN;*

*(D) proof exists that the FMLN is continuing to acquire or receive significant shipments of lethal military assistance from outside El Salvador, and this proof has been shared with the Congress; or*

*(E) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.*

*(3) EXCEPTION.—Notwithstanding any other provision of law, funds withheld pursuant to paragraph (1) of this subsection may be disbursed to pay the cost of any contract penalties which may be incurred as a result of such withholding of funds under this subsection.*

*(e) CONDITION FOR TERMINATION OF ALL UNITED STATES ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States assistance may be furnished to El Salvador if the duly-elected head of Government of El Salvador is deposed by military coup or decree.*

*(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.*

*(f) ESTABLISHMENT OF A FUND FOR CEASE-FIRE MONITORING, DEMOBILIZATION, AND TRANSITION TO PEACE.—(1) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a permanent settlement of the conflict, including a cease-fire, and the demobilization of combatants in the conflict in El Salvador, and their transition to peaceful pursuits, which shall be known as the "Demobilization and Transition Fund" (hereafter in this section referred to as the "Fund"). Amounts in this Fund shall be available for obligation and expenditure only upon notification by the President of the Congress that the Government of El Salvador and representatives of the FMLN have reached a permanent settlement of the conflict, including a final agreement on a cease-fire.*

*(2) TRANSFER OF CERTAIN MILITARY ASSISTANCE FUNDS.—Upon notification of the Congress of a permanent settlement of the conflict, including an agreement on a cease-fire, or on September 30, 1991, if no such notification has occurred prior to that date, the President shall transfer to the Fund any United States military assistance funds withheld pursuant to subsection (d) of this section.*

*(3) USE OF THE FUND.—Notwithstanding any other provision of law, amounts in the Fund shall be available for El Salvador solely to support costs of demobilization, retraining, relocation, and reemployment in civilian pursuits of former combatants in the conflict in El Salvador, and of the monitoring of the permanent settlement and cease-fire.*

*(4) DURATION OF AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts transferred to the Fund shall remain available until expended.*

*(g) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, United States military assistance for any fiscal year may be delivered to the armed forces of El Salvador only with the prior approval of the duly elected President of El Salvador.*

*(h) SUPPORT FOR DEMOCRACY.—(1) ESTABLISHING A PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador.*

*(2) ELECTION MONITORING.—Of the amounts made available to carry out this subsection, up to $2,000,000 may be used for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.*

*(3) ASSISTANCE.—Up to $10,000,000 of funds appropriated under the heading "Economic Support Fund" for fiscal year 1991 may be used to carry out this subsection.*

*(i) REPORTING REQUIREMENTS.—Sixty days after the date of enactment of this Act and every 180 days thereafter, the President shall submit to the Congress a report describing—*

*(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a permanent settlement to the conflict in El Salvador, including a cease-fire, and providing appropriate information regarding criteria described in subsections (c) and (d)(2); and*

*(2) the status of investigations into the politically motivated murders listed in section 538 of this Act.*

*(j) DEFINITIONS.—For purposes of this section—*

*(1) the term "United States assistance" has the same meaning as is given to such term by section 481(i)(4) of the Foreign As-*

*sistance Act of 1961 (22 U.S.C. 2291(i)(4)) and includes United States military assistance as defined in paragraph (2); and*

(2) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international military education and training) of part II of Foreign Assistance Act of 1961; and

(B) sales, credits, and guaranties under the Arms Export Control Act.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 532. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

ENVIRONMENT AND GLOBAL WARMING

SEC. 533. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) expand programs in energy conservation, end-use energy efficiency, and renewable energy and promotion by—

(A) continuing to augment and expand professional staffs with expertise in these areas;

(B) giving priority to these areas in the "least cost" energy sector investment plans;

(C) encouraging and promoting these areas in policy-based energy sector lending;

(D) developing loans for these purposes; and

(E) convening seminars for MDB staff and board members on these areas and alternative energy investment opportunities;

(2) provide analysis for each proposed loan to support additional power generating capacity comparing demand reduction costs to proposal costs;

(3) continue to assure that environmental impact assessments (EIA) of proposed energy projects are conducted early in the project cycle, include consideration of alternatives to the proposed project, and encourage public participation in the EIA process;

(4) continue to include the environmental costs of proposed projects with significant environmental impacts in economic assessments; and

(5) continue to provide technical assistance as a component of energy sector lending.

(b) The Secretary of the Treasury shall, not later than March 1, 1991, submit an annual report to the Congress which shall include—

(1) a detailed description of how the natural resource management initiatives mandated by this section have been incorporated in the Administration's efforts to address Third World Debt (the Brady Plan);

(2) a detailed description of progress made by each of the MDB's in adopting and implementing programs meeting the standards set out in subsection (a) including, in particular, efforts by the Department of the Treasury to assure implementation of this section, progress made by each MDB in subsection (a)(1)(B), and the amounts and proportion of lending in the energy sector for projects or programs in subsection (a)(1);

(3) the progress the Inter-American Development Bank has made in implementing environmental reforms;

(4) an updated analysis of each MDB's forestry sector loans, and a current analysis of each MDB's energy sector loans, and their impact on emissions of $CO_2$ and the status of proposals for specific forestry and energy sector activities to reduce $CO_2$ emissions; and

(5) the progress the International Bank for Reconstruction and Development has made in implementing the recommendations set forth in the April 1, 1988, report on "Debt-for-Nature Swaps" by the World Bank.

(c)(1) The Administrator of the Agency for International Development shall update and issue guidance to all Agency missions and bureaus detailing the elements of the "Global Warming Initiative", which will continue to emphasize the need to reduce emissions of greenhouse gases, especially $CO_2$ and CFCs, through strategies consistent with continued economic development. This initiative shall continue to emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Administrator shall pursue this initiative by, among other things—

(A) increasing the number and expertise of personnel devoted to this initiative in all bureaus and missions;

(B) devoting increased resources to technical training of mission directors;

(C) accelerating the activities of the Multi-Agency Working Group on Power Sector Innovation;

(D) focusing tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases to the global environment;

(E) assisting countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry;

(F) focusing energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases; and

(G) continuing to follow the directives with respect to key countries and countries that receive large Economic Support Fund assistance contained in section 534(b)(3) of Public Law 101-167.

[(3) None of the funds appropriated in this Act shall be used for any project that would result in any significant loss of tropical forests].

*(3) None of the funds appropriated in this Act shall be available for any program, project or activity which would—*

*(A) result in any significant loss of tropical forests; or*

*(B) involve industrial timber extraction in primary tropical forest areas.*

(4) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(5) Funds appropriated by this Act to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 may be used for expenses (including related support costs) relating to the environment and energy sectors, of employees or individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative" described in this subsection.

[(6) Not less than $15,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 (including funds for sub-Saharan Africa) shall be made available for biological diversity activities, of which $3,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act.

[(7) Not less than $30,000,000 of the funds appropriated to carry out the provisions of section 106 of the Foreign Assistance Act of 1961 shall be made available to support the "Global Warming Initiative" as described in this subsection.]

*(d) Of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961, not less than $80,000,000 shall be made available for environment and energy activities, including funds earmarked under section 534 of this Act, as follows—*

*(1) not less than $15,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for biological diversity activities, of which: $3,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act, $500,000 shall be for neotropical migratory bird conservation in Latin America and the Caribbean, $750,000 shall be for Project Noah, and $1,500,000 shall be for the National Science Foundation's international biological diversity program;*

*(2) not less than $30,000,000 of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available to support the "Global Warming Initiative" as described in this section;*

*(3) not less than $5,000,000 of the funds appropriated to carry out the provisions of sections 103, 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for assistance in support of elephant conservation and preservation; and*

*(4) not less than $20,000,000 of the funds appropriated to carry out the provisions of*

*sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available for the Office of Energy of the Agency for International Development.*

*(e) Chapter 1 of part II of the Foreign Assistance Act of 1961 is amended by adding the following new section:*

*"SEC. 518. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.—(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Subject to the limitations in this section, the President may transfer excess defense articles to friendly countries, and to international organizations and private and voluntary organizations for the purposes contained in section 119 of this Act.*

*"(b) LIMITATION ON TRANSFERS.—Transfers under this section shall be subject to the limitations contained in section 516(b), and shall be subject to the notification requirements of section 516(c), of this Act.*

*"(c) TRANSPORTATION.—The Department is authorized to transport excess defense articles made available pursuant to this section without charge on a space available basis.*

*"(d) WAIVER OF REQUIREMENTS FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to tranfers of excess defense articles under this section or the transportation of such articles as authorized by subsection (c).".*

*(f) Notwithstanding any other provision of law, none of the funds appropriated by this Act for programs of the Agency for International Development may be made available for any project or activity except in accordance with the requirements of section 117(c) of the Foreign Assistance Act of 1961 and the regulations issued pursuant thereto (22 CFR 216).*

MONTREAL PROTOCOL FACILITATION FUNDS (INCLUDING TRANSFER OF FUNDS)

SEC. 534. Not less than $10,000,000 of the funds appropriated by this Act to carry out [section] *sections 103 and* 106 of the Foreign Assistance Act of 1961 shall be used to support the creation of a fund to facilitate and support global participation in the Montreal Protocol on Substances that Deplete the Ozone Layer: *Provided,* That these funds shall be transferred to the Bureau of Oceans, International Environment and Scientific Affairs of the Department of State and shall be made available, after consultations with the Environmental Protection Agency, to the United Nations Environment Program in its role as Secretariat to the Protocol: *Provided further,* That the United States representative to the Secretariat shall seek assurances that none of these funds shall be contributed to any developing country that is not a party to the Protocol and operating under Article 5 of the Protocol.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 535. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 536. Of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, up to $70,000,000 may be made available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law. In carrying out this section, the Administrator of the Agency for International Development shall ensure that an equitable portion of the funds is made available to benefit Afghan women and girls, particularly in programs in refugee camps in Pakistan and in reconstruction projects in Afghanistan.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 537. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 538. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders, (3) pursued all legal avenues to bring to trial those who ordered and carried out the September 1988 massacre of ten peasants near the town of San Francisco, El Salvador, and to obtain a verdict, and (4) pursued all legal avenues to bring to trial those who ordered and carried out the November 1989 murders of six Jesuit priests and their associates, and to obtain a verdict.

REFUGEE RESETTLEMENT

SEC. 539. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Financing Program", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 540. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 541. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, *Guatemala,* or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 542. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 543. Of the funds made available by this Act for assistance for health, child survival, and AIDS, up to $8,000,000 may be used to reimburse United States Government agencies, agencies of State governments, [and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to] *institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be,* the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That [personnel who are detailed or assigned for the purposes of this section] *such individuals* shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

CHILE

SEC. 544. *(a)* Funds appropriated by this Act under the heading "Economic Support Fund" may be used under the authority of section 534(b)(4) and (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society. Assistance may be provided under this section without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.

*(b) Section 726(c) of the International Security and Development Cooperation Act of 1981 is amended by striking out "and technical manuals for aircraft of the F-5E/F or A/T-37 type which were sold to the Chilean Air Force by the United States before January 1, 1976" and inserting in lieu thereof "components, parts, tools, technical manuals, technical changes to technical orders (TCTOs), or TCTO retrofits for aircraft of the F-5E/F, A/T-37, or C-130E/H type owned by the Chilean Air Force".*

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 545. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

SEC. 546. Section 61(a) of the Arms Export Control Act is amended by striking out "1990" and inserting in lieu thereof "1991".

DEFENSE EQUIPMENT DRAWDOWN

SEC. 547. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided,* That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

(b) [Section 506(a) of the Foreign Assistance Act of 1961 is amended by inserting the following new paragraph:

["(3) An aggregate value of not to exceed $100,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to paragraphs (1) and (2) of this subsection.".]

[(c)] Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 548. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 549. Funds appropriated by this Act may be obligated and expended [subject to] *notwithstanding* section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 550. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements[: *Provided further,* That the transmittal of a copy of a debt relief agreement under this section shall be treated for purposes of review by the Committees on Appropriations as if it were a notification submitted pursuant to section 523 of this Act.]

MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

SEC. 551. (a) Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $7,000,000 from funds appropriated under the heading "Economic Support Fund".

(b) Section 556(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended by striking out "September 30, 1990" and inserting in lieu thereof "July 31, 1991".

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 552. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 553. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Pakistan: *Provided,* That funds may be made available to facilitate the sale of such shells notwithstanding the limitations of this section if the President determines that to do so is in the national security interest of the United States.

EARMARKS

SEC. 554. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 555. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 556. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1990, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each

waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

[HONDURAS—RAMIREZ CASE

[SEC. 557. It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71, the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $5,000,000 of the Economic Support Fund assistance made available by Public Law 100-71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided*, That if a settlement is reached on the property in question, then the additional $10,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.]

*COMMISSION ON FOREIGN ASSISTANCE MANAGEMENT*

*SEC. 557. (a) FINDINGS.—The Congress finds that, although it has effectively carried out United States foreign assistance programs under markedly changed economic and political circumstances since enactment of the Foreign Assistance Act in 1961, the Agency for International Development has in recent years begun to experience serious management difficulties in the areas of program implementation, control and accountability, and deployment of limited personnel resources. The Congress also finds that a pattern of pervasive management problems and weaknesses has persisted in the Agency for several years without significant action by the Agency to remedy or remove these problems and weaknesses. These systemic management problems and weaknesses, coupled with the continued expansion of the Agency's programs to include additional countries and program responsibilities, raise serious concerns about the effectiveness of present management structures, practices, and procedures in the Agency. The Congress recognizes that these persistent management problems and weaknesses are occurring at a time when budget limitations make it imperative that the Agency is able to carry out its mandate efficiently and in a coordinated fashion. Therefore, the Congress believes that the establishment of an independent commission to examine management issues arising from the implementation of the United States bilateral economic assistance program will enhance the effectiveness of that program and serve the national interest.*

*(b) ESTABLISHMENT.—There is established the Commission on Management of Agency for International Development Programs (hereafter in this section referred to as the "Commission").*

*(c) MEMBERSHIP.—The Commission shall consist of 5 members appointed by the President after consultation with the Chairmen of the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Chairmen of the Committee on Appropriations and the Committee on Foreign Relations of the Senate. Individual members of the Commission shall be from the private sector or Members of Congress. The President shall designate the Chairman of the Commission from among its members.*

*(d) DUTIES.—The Commission shall conduct a thorough study and investigation and recommend appropriate administrative action and legislation necessary in connection with the following:*

*(1) the adequacy of systems of program and management evaluation and coordination, taking into consideration, among other things—*

*(A) the need to identify central foci within the Agency to coordinate its program and management responsibilities and to evaluate the Agency's program and management performance;*

*(B) the need to develop specific indicators of effective performance for both program and management functions;*

*(C) the need to ensure that the results of program and management evaluations are widely disseminated and taken into consideration in future Agency actions;*

*(D) the need to focus the review of the Agency's programs by the Administration and the Congress on the impact of those programs;*

*(2) the adequacy of personnel management systems, taking into consideration, among other things—*

*(A) the need to systematically ensure the integration of program, operating expense, and personnel levels;*

*(B) the need to adjust personnel and operating expense levels among organizational units in order to meet changing program requirements;*

*(C) the capacity to meet changing requirements for program and management skills in headquarters offices and field missions;*

*(D) the significance of operating and program funding distinctions as they affect the ability of the Agency to adjust its personnel to program requirements;*

*(3) the adequacy of systems of personal accountability for program management, taking into consideration, among other things—*

*(A) the need to establish and identify clear lines of decision-making responsibility among headquarters offices and between headquarters and field missions;*

*(B) the need to ensure that an individual's performance in the implementation and management of the Agency's program portfolio is appropriately reflected in its promotion and assignment processes.*

*(e) REPORT.—The Commission shall submit a comprehensive report to the President and to the Congress, not later than six months from the date after which all members of the Commission have been appointed, containing the findings and recommendations of the Commission with respect to its study and investigation. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection.*

*(f) COMPENSATION AND PER DIEM.—(1) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission.*

*(2) PER DIEM.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.*

*(g) AUTHORITIES.—(1) IN GENERAL.—The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.*

*(2) APPOINTMENTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may appoint and fix the compensation of a Director and such other staff as the Chairman considers necessary.*

*(3) TEMPORARY SERVICES.—The Chairman of the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332(a)).*

*(4) ADMINISTRATIVE SUPPORT.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section. The Administrator of the Agency for International Development shall provide to the Commission on a reimbursable basis such administrative support services as the Chairman of the Commission may request.*

*(5) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.*

*(h) FUNDING.—In addition to funds otherwise available for such purposes, up to $500,000 of the unearmarked funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used to carry out the provisions of this section.*

SOUTH AFRICA—SCHOLARSHIPS

SEC. 558. Of the funds made available by this Act under the heading "Economic Support Fund", $10,000,000 may be made available for scholarships for disadvantaged South Africans.

NARCOTICS CONTROL PROGRAM

SEC. 559. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", $59,900,000 may be made available for Bolivia, Ecuador, Jamaica, and Peru.

(2) In addition to funds made available under paragraph (1), of the funds appropriated by this Act under the heading "Economic Support Fund", $195,000,000 may be made available for Peru, Bolivia, Colombia, and Ecuador: *Provided*, That funds under this paragraph may be made available to a country only if such country is making significant progress, as appropriate, in (A) satisfying the goals agreed to in the applicable bilateral narcotics agreement between such country and the United States, or a comparable multilateral agreement, (B) preventing narcotic drugs and other controlled substances from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly

or indirectly, into the United States, (C) preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and (D) preventing and punishing public corruption which facilitates the illicit production, processing, or shipment of narcotic drugs and other controlled substances, or which discourages the investigation and prosecution of such acts.

(3) For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act may be made available for [Bolivia, Peru, Colombia, Ecuador, and Jamaica] a country which, because of its coca production, is a major illicit drug producing country to promote the production, processing, and the marketing of products which can be economically produced in those countries, notwithstanding section 521 of this Act.

(4) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", not more than $118,000,000 may be made available for Bolivia, Peru, and Colombia: *Provided,* That no funds may be made available under this paragraph to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights.

(5)(A) Of the funds appropriated by this Act to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, up to $2,000,000, except through the regular notification procedures of the Committees on Appropriations, may be made available for Bolivia, Peru, Colombia, and Ecuador, notwithstanding section 660 of such Act, for—

(i) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(ii) the expenses of deploying, upon the request of the government of such foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(B) Education and training under this paragraph may be provided only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(6) Funds made available by this Act to carry out the provisions of the Arms Export Control Act and section 534 of the Foreign Assistance Act of 1961 may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, and Peru that are organized for the specific purpose of narcotics enforcement: *Provided,* That assistance under this paragraph may be provided notwithstanding section 660 of the Foreign Assistance Act of 1961 and the second sentence of section 534(e) of that Act: *Provided further,* That assistance provided pursuant to this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

(7) Funds made available under this subsection shall be available for obligation consistent with *requirements to apply* the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control).

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1990, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(B) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

(d) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs) of the Agency for International Development, and $40,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 560. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 561. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIAN NONCOMMUNIST RESISTANCE FORCES

[SEC. 562. (a) ASSISTANCE.—Not to exceed $7,000,000 of the funds appropriated by this Act under the heading "ECONOMIC SUPPORT FUND" may be made available for assistance for the Cambodian noncommunist resistance forces and noncommunist civilians in Cambodia, notwithstanding any other provision of law (except that sections 531(e) and 634A of the Foreign Assistance Act of 1961 and section 523 of this Act apply with respect to funds used under this section).

[(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security and Development Cooperation Act of 1985.

[(2) The President shall terminate assistance under this section to any noncommunist resistance organization that he determines is engaged in a pattern of military cooperation and coordination designed to assist the Khmer Rouge.

[(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

[(d) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—Any assistance provided under this section shall be in addition to the assistance provided for under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN"]

*ASSISTANCE FOR BURMA*

*SEC. 562. Funds appropriated by this Act, and funds appropriated in prior foreign assistance appropriations Acts which were used to provide assistance for Burma under chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be made available, notwithstanding any other provision of law, for training and education assistance for Burmese students outside of Burma who are displaced as a result of civil conflict, and for activities which support democratic pluralism in Burma.*

COMPETITIVE INSURANCE

SEC. 563. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

IRELAND

SEC. 564. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

ASSISTANCE TO AFGHANISTAN

SEC. 565. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided

through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 566. Not less than 25 per centum of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

DISADVANTAGED ENTERPRISES

SEC. 567. (a) Except to the extent that the Administrator of the Agency for International Development of the Foreign Assistance Act of 1961 determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for development assistance and assistance for famine recovery and development in Africa shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for famine recovery and development in Africa for fiscal year 1990.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the agency's headquarters in Washington, as well as all agency missions and regional offices, shall notify the agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year.

(6) The Administrator shall issue interim regulations to carry out this section within ninety days after the date of the enactment of this Act and final regulations within one hundred and eighty days after that date.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

STINGERS IN THE PERSIAN GULF REGION

SEC. 568. *(a)* Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

*(b) Section 5669(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, is hereby repealed.*

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 569. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

APPROPRIATIONS OF EXCESS CURRENCIES

SEC. 570. The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 by any provision of law enacted after the date of enactment of this Act unless such provision makes specific reference to this section.

DEBT-FOR-DEVELOPMENT

SEC. 571. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including debt-for-development and debt-for-nature exchanges, a nongovernmental organization may invest local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be used, including for the establishment of an endowment, for the purpose for which the assistance was provided to that organization.

LEBANON

SEC. 572. [Funds] *Of the funds* appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 [which are] *not less than $7,500,000 shall be* made available for Lebanon *and* may be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

LOCATION OF STOCKPILES

[SEC. 573. (a) Except for stockpiles located in the Republic of Korea, Thailand, a country which is a member of the North Atlantic Treaty Organization, or a country which is a major non-NATO ally, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.]

*SEC. 573. (a) Section 514(c) of the Foreign Assistance Act of 1961 is amended by inserting "or major non-NATO allies," after "Organization,".*

(b) Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h) is amended by striking out "$165,000,000 for fiscal year 1990" and inserting in lieu thereof [$178,000,000 for fiscal year 1991"] *"$278,000,000 for fiscal year 1991, of which amount not less than $200,000,000 shall be for stockpiles in Israel".*

ASSISTANCE FOR PAKISTAN

SEC. 574. *(a)* Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "April 1, 1991" and inserting in lieu thereof "April 1, 1992".

*(b) Notwithstanding any other provision of law, none of the funds appropriated by this Act under the headings "Economic Support Fund", "Foreign Military Financing Program", and "International Military Education and Training", may be made available for Pakistan unless the President certifies, and so reports to the Congress, that—*

*(1) the state of emergency in Pakistan was lifted, and full civil liberties restored, in time to allow for the fair conduct of National Assembly elections;*

*(2) the Government of Pakistan held timely, free, fair, and internationally monitored National Assembly elections, open to the full participation of all legal parties and all candidates of those parties;*

*(3) the proceedings of the Special Courts established on August 8 and August 21, 1990, did not interfere with the conduct of free and fair elections; and*

*(4) the National Assembly has convened and that no elected member of the Assembly has been denied a seat for political reasons.*

*(c) None of the funds appropriated in this Act shall be obligated or expended for Pakistan except as provided through the regular notification procedures of the Committees on Appropriations.*

SEPARATE ACCOUNTS

SEC. 575. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under [arrangements] *agreements* which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be [generated] *deposited*, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 of part I or chapter 4 of part II (as the case may be), [or] *for*—

*(i) project and sector assistance activities, or*

*(ii) general budget support, including debt and deficit financing; or*

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

*(5) AMOUNT OF LOCAL CURRENCIES DEPOSITED.—(A) For purposes of this section and section 609 of the Foreign Assistance Act of 1961, the amount of local currencies deposited shall be whatever amount is agreed upon for joint programming by the Administrator and the foreign government and which amount, for the purposes of this section, is specified in the agreement required by subsection (a)(1)(B).*

*(B) The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.*

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ELIGIBILITY FOR OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 576. (a) PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 is amended by inserting ["Czechoslovakia] *"or any other East European country,"* after "Hungary,".

[(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland, Hungary, and Czechoslovakia which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

[(2) For purposes of this subsection, the term "nongovernmental sector" in Poland, Hungary, and Czechoslovakia includes private enterprises, cooperatives (insofar as they are not administered by the Governments of Poland, Hungary, or Czechoslovakia), joint ventures (including partners which are not the Governments of Poland, Hungary, or Czechoslovakia or instrumentalities thereof), businesses in Poland, Hungary, or Czechoslovakia that are wholly or partly owned by United States citizens, including those of Polish, Hungarian, or Czechoslovak descent, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

[(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Czechoslovakia, Poland and Hungary has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

[(d) EFFECTIVE DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Czechoslovakia, Poland and Hungary shall take effect upon the date of enactment of this Act and shall remain in effect until September 30, 1992.]

*(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland, Hungary, and other East European countries which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.*

*(2) For purposes of this subsection the term "nongovernmental sector" includes private enterprises, cooperatives (insofar as they are not administered by the government), joint ventures (including partners which are not governments of East European countries or instrumentalities thereof), businesses that are wholly or partly owned by United States citizens, religious and ethnic groups (including the Catholic Church), and other independent social organizations.*

*(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Eastern Europe has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.*

*(d) EXPIRATION DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, and guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Eastern Europe shall remain in effect until September 30, 1992.*

ASSISTANCE FOR NICARAGUA

SEC. 577. (a) None of the funds appropriated by this Act shall be provided for any member of the Nicaraguan resistance who has not disarmed and is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.

(b) Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended by repealing subsection (c).

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 578. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and De-

velopment, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

WITHHOLDING OF OBLIGATIONS FOR THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

[SEC. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until—

[(1) the President reaches an agreement, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflects the real collectability of debts of the Polish Government to the Government of the United States, and

[(2)(A) an International Monetary Fund agreement is in effect with respect to Poland, and that it is the intent of the Polish Government to continue full implementation of that program,

[(B) the recent historic change of the Polish Government into a democracy is being maintained,

[(C) the Polish Government is seeking comparable treatment of both public and private external debt, and

[(D) final debt adjustment agreements provide comparable treatment of both public and private external creditors in order to avoid inequity between different categories of creditors.

[(b) Debt adjustment agreements for the democratic Government of Poland should recognize that Polish economic conditions and therefore the collectability of Polish debt are far worse than the economic conditions which faced the Federal Republic of Germany in the early 1950's when its external debts were adjusted under both the London Agreement on German External Debts and under other postwar official bilateral debt agreements reached with the Allied powers and Denmark. At that time, the German debt to GNP ratio was 15.6 percent and the German debt to export ratio was 87.1 percent. For Poland today these same ratios, which reflect the dire economic circumstances in Poland and the inability of the Polish Government to service its debt, are 63.9 percent and 300.7 percent.

[(c) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.]

*SEC. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until—*

*(1) the President has reached an agreement, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflects the real collectability of debts of the Government of Poland to the Government of the United States, and*

*(2)(A) an International Monetary Fund agreement is in effect with respect to Poland, and that it is the intent of the Government of Poland to continue implementation of that program,*

*(B) the recent historic change of the Government of Poland into a democracy is continuing,*

*(C) the Government of Poland is seeking comparable treatment of both public and private external debt, and*

*(D) final debt adjustment agreements provide comparable treatment of both public and private external creditors in order to avoid inequity between different categories of creditors.*

*(b) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.*

FMF FOR FMS DEBT REPAYMENT

SEC. 580. Section 23 of the Arms Export Control Act is amended by inserting a new subsection (e), as follows:

"(e)(1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

"(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).".

[CASH FLOW FINANCING LIMITATION

[SEC. 581. Effective October 1, 1993, not more than 75 percent of the funds allocated to each country in any fiscal year under the Foreign Military Financing Program may be used for the practice of "cash flow financing" as defined in section 25(d) of the Arms Export Control Act.

[SEC. 582. Except for amounts appropriated for Sub-Saharan Africa Development Assistance, the Peace Corps, Anti-Terrorism Assistance, International Narcotics Control, Migration and Refugee Assistance, Emergency Refugee Migration Assistance, the Export Import Bank, Payment to the Foreign Service Retirement and Disability Fund, and the Guaranty Reserve Fund, appropriations contained in this Act for each account shall be reduced by 2 percent of the aggregate of the appropriated and unearmarked funds.]

*FUTURE ASSISTANCE PROJECTIONS*

*SEC. 581. The Congress finds that, as is the case with most domestic programs, overall constraints on the Federal budget will have a significant impact on the ability of the United States Government to meet program requirements in the coming years. Therefore, in order to assist the Congress to make the difficult policy choices attendant to budget shortfalls, the Congressional Presentation Documents of departments and agencies included within this Act shall contain funding projections for each of its major program components for each of the two years following the year for which new budget or other authority is being requested. The requirements of this section shall be effective for the Congressional Presentation Documents submitted for the fiscal year 1992.*

*HUMAN RIGHTS*

*SEC. 582. Not later than thirty days after submission of the report required by section 502B(b) of the Foreign Assistance Act of 1961, the Secretary of State shall submit to the Committees on Appropriations a listing of those countries the governments of which are found, based upon the criteria and findings in the report required by section 502B(b) of the Foreign Assistance Act of 1961, to engage in a consistent pattern of gross violations of internationally recognized human rights. This list shall be accompanied by a report from the Secretary of State describing how, for each country receiving assistance under the Foreign Military Financing Program, such assistance will be conducted to promote and advance human rights and how the United States will avoid identification with activities which are contrary to internationally recognized standards of human rights.*

*OTHER ASSISTANCE FOR EASTERN EUROPE*

*SEC. 583. Notwithstanding any other provision of law, a total of $500,000 of the Polish currencies which are held by the United States as of the date of the enactment of this Act which are derived from programs administered by the Commodity Credit Corporation, or pursuant to the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, shall be made available for the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland: Provided, That such currencies shall be made available notwithstanding 31 U.S.C. 1306 and section 570 of this Act.*

*EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT*

*SEC. 584. In all negotiations concerning the structure, bylaws, and operating procedures of the European Bank for Reconstruction and Development (EBRD), the Secretary of the Treasury shall vigorously seek—*

*(1) establishment of procedures for environmental assessment of all proposed operations with potentially significant environmental impacts;*

*(2) establishment of an environmental unit with sufficient staff to review proposed operations, monitor compliance with environmental provisions, and provide overall policy guidance;*

*(3) establishment of procedures for systematic consultation with and involvement of the public and interested nongovernmental organizations, including an opportunity for comment by local communities which may be affected by EBRD operations;*

*(4) agreement that a significant portion of the EBRD's funds shall be devoted to projects focussed on environmental restoration and protection; and*

*(5) establishment of an Environment Fund to provide grants and loans for technical assistance, development of environmental institutions and regulatory systems, public education, and training.*

*PROPERTY MANAGEMENT FUND*

*SEC. 585. (a) The proceeds of overseas property acquired by the Agency for International Development under the authority of section 636(c) of the Foreign Assistance Act of 1961 may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 636(c) of that Act, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development.*

*(b) The provisions of subsection (a) shall be applicable to property acquired prior to the date of enactment of this Act and at any time thereafter.*

*COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ*

*SEC. 586. (a) IN GENERAL.—No United States assistance appropriated by this Act may be provided to any country which is not in compliance with the United Nations-sponsored economic sanctions against Iraq unless the President determines and so certifies to the Congress that—*

*(1) it is in the national interest of the United States to do so;*

(2) such assistance would directly benefit the needy people in that country;

(3) such assistance would be used to provide humanitarian assistance to refugees in that country; or

(4) the government of the country receiving the assistance is making a good faith effort to comply with those economic sanctions.

(b) DEFINITION.—For purposes of this section, the term "United States assistance" means—

(1) assistance under the Foreign Assistance Act of 1961, including programs under title IV of chapter 2 of part I of that Act (relating to the Overseas Private Investment Corporation); and

(2) sales, credits, and guaranties under the Arms Control Export Act.

MILITARY AID LIMITED TO DEMOCRATIC GOVERNMENTS

SEC. 587. None of the funds appropriated or otherwise made available pursuant to this or previous Acts shall be obligated or expended to finance or provide any military assistance to a government that, as determined by the President (1) has not been chosen pursuant to free and fair elections, or (2) is not making significant progress toward democracy: Provided, That this section shall not apply to assistance to a country if the President determines, and so notifies the Congress, that assistance to such country is in the national interest of the United States: Provided further, That for the purposes of this section, "military assistance" means foreign military financing under the Arms Export Control Act and international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961.

MANDATORY RETIREMENT FOR CERTAIN INSPECTOR GENERAL STAFF

SEC. 588. (a) COMPUTATION OF ANNUITIES.—Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) utilizing the definition of average pay contained in section 8331(4) of title 5, United States Code, the annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who was appointed to a law enforcement position, as defined in section 8331(20) of the title 5, United States Code, prior to January 1, 1984, and would have been eligible to retire pursuant to section 8336(c) of that title, after attaining 50 years of age and completing 20 years as a law enforcement officer had the employee remained in the civil service shall be computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of that title, except as provided in paragraph (3); and

"(B) the annuity of a Foreign Service criminal investigator/inspector of such office, who was appointed to a law enforcement position as defined in section 8401(17) of that title on or after January 1, 1984, and who would have been eligible to retire pursuant to section 8412(d) of that title, after attaining 50 years of age and completing 20 years of service as such a law enforcement officer, had the employee remained in the civil service, shall be computed in the same manner as that of a law enforcement officer pursuant to section 8415(d) of that title.

"(3) The annuity of a Foreign Service investigator/inspector of the Office of the Inspector General, Agency for International Development, appointed to a law enforcement position prior to January 1, 1984, who exercised election rights under section 860 of the Foreign Service Act of 1980, shall be computed as follows: for the period prior to election the annuity shall be computed in accordance with section 8339(d) of title 5, United States Code; for the period following election the annuity shall be computed in accordance with section 8415(d) of that title.

"(4) All service in a law enforcement position, as defined in section 8331(20) or 8401(17) of that title, as applicable, in any agency or combination of agencies shall be included in the computation of time for purposes of this paragraph.

"(5) The annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General of the Agency for International Development who has not completed 20 years of service as a law enforcement officer, as defined in section 8331(20) or 8401(17) of that title, shall be computed in accordance with paragraph (1).

"(6) For purposes of paragraphs (2), (3) and (4) of this subsection, the term 'basic pay' includes pay as provided in accordance with section 412 of this Act or section 5545(a)(2) of title 5, United States Code.".

(b) Section 812 of the Foreign Service Act of 1980 is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding the following new paragraph:

"(2) Notwithstanding paragraph (1), a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service, shall be separated from the Service on the last day of the month in which that Foreign Service criminal investigator/inspector attains 55 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.".

PRESIDENTIAL FOREIGN ASSISTANCE CONTINGENCY AUTHORITIES

SEC. 589. Section 451(a) of the Foreign Assistance Act of 1961 is amended by—

(1) striking out the phrases "not to exceed $10,000,000 of" and "in any fiscal year";

(2) striking out the phrase "emergency purposes" and inserting in lieu thereof "unanticipated contingencies"; and

(3) inserting the following immediately before the period: ", except that the authority of this subsection may not be used to authorize the use of more than $50,000,000 during any fiscal year".

LIMITATION ON AVAILABILITY OF ADMINISTRATIVE CHARGES FOR PAYMENT OF THE COSTS OF SECURITY ASSISTANCE ADMINISTRATIVE PERSONNEL

SEC. 590. Section 43 of the Arms Export Control Act (22 U.S.C. 2792) is amended by adding at the end thereof the following new subsection:

"(d)(1) Not more than $265,000,000 of the funds derived from administrative surcharges and logistic support charges pursuant to section 21(e)(1)(A) may be used each fiscal year for payment of the costs associated with security assistance administrative personnel, including the salaries or other benefits of civilians who serve as security assistance administrative personnel.

"(2) For purposes of paragraph (1), the term 'security assistance administrative personnel' means the military or civilian personnel who administer the provision of security assistance.".

IRAQ SANCTIONS

SEC. 591. (a) GENERAL PROHIBITION ON SUPPORT FOR IRAQ.—

(1) Notwithstanding any other provision of law, no funds, credits, guarantees or insurance appropriated or otherwise made available by any Act for fiscal year 1990 or thereafter, shall be used to support or administer any financial or commercial operation, of any United States Government department, agency, entity or persons subject to United States jurisdiction, involving the Government of Iraq, its agencies, institutions or persons working on its behalf, including the processing of any "validated" or "general" export licenses or any documentation related to the importation of Iraqi-origin products into the United States or its territories, or possessions thereof.

(2) The Department of Commerce is instructed to include Iraq within Country Group S within supplement Number 1 to section 770 of the Export Administration Regulations ("EAR").

(3) This subsection shall become effective immediately upon the enactment of this Act, except for the performance of a contract or agreement entered into before the enactment of this Act.

(4) The penalties for violation of the general prohibition contained in this subsection by exporters, exporting agents and entities under the jurisdiction of the United States, shall be the same as those contained in section 11 of the Export Administration Act of 1979, as amended, Public Law 96-72 (93 Stat. 529, as amended).

(b) IRAQ TO BE CONSIDERED A TERRORIST NATION.—(1) Notwithstanding any other provision of law, for the purpose of the application of prohibitions, limitations, restrictions, and other requirements of the provisions of law contained in paragraph (2), Iraq shall be considered a country which grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, has repeatedly provided support for acts of international terrorism, or otherwise supports international terrorism.

(2) The provisions of law referred to in subsection (a) include—

(A) section 620A of the Foreign Assistance Act of 1961, as amended;

(B) sections 563 and 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990;

(C) section 555 of the International Security and Development Cooperation Act of 1985; and

(D) similar provisions of law.

(3) The President may not use any waiver authority provided under Acts referred to in paragraph (2) of this subsection, or statutes made applicable by virtue of paragraph (2)(D), or under subsection 40(b) of the Arms Export Control Act, with respect to Iraq.

(c) STUDY AND REPORT ON THE INTERNATIONAL EXPORT TO IRAQ OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND BALLISTIC MISSILE TECHNOLOGY.—(1) The President shall conduct a study

on the sale, export and third party transfer or development of nuclear, biological, chemical and ballistic missile technology to or with Iraq including—

(A) an identification of specific countries, as well as companies and individuals, both foreign and domestic, engaged in such sale or export of, nuclear, biological, chemical and ballistic missile technology;

(B) a detailed description and analysis of the international supply, information, support and co-production network, individual, corporate and state, responsible for Iraq's current capability in the area of nuclear, biological, chemical and ballistic missile technology;

(C) a recommendation of standards and procedures against which to measure and verify a decision of the Government of Iraq to terminate the development, production, co-production and deployment of nuclear, biological, chemical and offensive ballistic missile technology as well as the destruction of all existing facilities associated with such technologies.

(2) The President shall include in the study required by paragraph (1) specific recommendations on new mechanisms, to include, but not limited to, legal, political, economic and regulatory, whereby the United States might contribute, in conjunction with its friends, allies, and the international community, to the management, control or elimination of the threat of nuclear, biological, chemical and ballistic missile proliferation.

(3) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(d) STUDY AND REPORT ON IRAQ'S OFFENSIVE MILITARY CAPABILITY.—(1) The President shall conduct a study on Iraq's offensive military capability and its affect on the Middle East balance of power including an assessment of Iraq's power projection capability, the prospects for another sustained conflict with Iran, joint Iraqi-Jordanian military cooperation, the threat Iraq's arms transfer activities pose to United States allies in the Middle East, and the extension of Iraq's political-military influence into Africa and Latin America.

(2) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(e) REPORT ON SANCTIONS TAKEN BY OTHER NATIONS AGAINST IRAQ.—(1) The President shall prepare a report on the steps taken by other nations, both before and after the August 2, 1990 invasion of Kuwait, to curtail the export of goods, services and technologies to Iraq which might contribute to, or enhance, Iraq's nuclear, biological, chemical and ballistic missile capability.

(2) The President shall provide a complete accounting of international compliance with each of the sanctions resolutions passed by the United Nations Security Council against Iraq since August 2, 1990, and shall list, by name, each country which to his knowledge, has provided any assistance to Iraq and the amount and type of that assistance in violation of each United Nations resolution.

(3) The President shall make every effort to encourage other nations, in whatever forum or context, to adopt sanctions toward Iraq similar to those contained in this section.

(4) Not later than every six months from the date of enactment of this section, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

EXCESS DEFENSE ARTICLES FOR COUNTRIES SUPPORTING DESERT SHIELD

SEC. 592. Section 516(a) of the Foreign Assistance Act of 1961 is amended by inserting after the second occurrence of the words "United States security assistance," the words "and those countries which received Foreign Military Financing (FMF) assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,".

CHEMICAL WEAPONS PROLIFERATION

SEC. 593. None of the funds appropriated by this Act may be used to finance the procurement of chemicals, dual use chemicals, or chemical agents that may be used for chemical weapons production: Provided, That the provisions of this section shall not apply to any such procurement if the President determines that such chemicals, dual use chemicals, or chemical agents are not intended to be used by the recipient for chemical weapons production.

JUDICIAL REVIEW OF GRIEVANCES ALLEGING DISCRIMINATION IN THE FOREIGN SERVICE

SEC. 594. (a) Section 1101(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4131(a)(1)) is amended by—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) any discrimination prohibited by—

"(i) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16),

"(ii) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)),

"(iii) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791),

"(iv) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), or

"(v) any rule, regulation, or policy directive prescribed under any provision of law described in clauses (i) through (v).".

(b) Section 1101(b) of the Foreign Service Act of 1980 (22 U.S.C. 4131(b)) is amended by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) any complaint brought with respect to the mandatory retirement age in section 812(a).".

(c) Section 1110 of the Foreign Service Act of 1980 (22 U.S.C. 4140) is amended by—

(1) striking out "Any" and inserting in lieu thereof "(a) Any"; and

(2) adding at the end thereof the following new subsections:

"(b) Any case seeking judicial review of alleged discrimination under section 1101(a)(1)(H) shall be filed under section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(c)), section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), or section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)), as applicable. Notwithstanding any other provision of law, any such case filed under this subsection must be filed within 180 days after the date the individual filing the case received written notice of the judicially reviewable final action of the Secretary or Board.

"(c) Notwithstanding any other provision of law, nothing in this section shall be construed to affect the right to trial de novo under any provision of law described in section 1101(a)(1)(H) after a judicially reviewable action, including the decision of an agency made pursuant to a specific statutory hearing procedure provided pursuant to such provision of law, or after a final action of the Secretary or the Board. Notwithstanding any other provision of law, any such case seeking a trial de novo must be filed within 180 days after the date the individual filing the case received written notice of the judicially reviewable final action, of the Secretary or Board.".

(d) The amendments made by this section shall apply to grievances filed under chapter 11 of the Foreign Service Act of 1980 on or after the date of enactment of this Act.

NOTIFICATIONS FOR EMERGENCY ASSISTANCE

SEC. 595. Any requirement to provide advance notification to the Congress, or any congressional committees, under any provision of this Act, or of any Act authorizing or appropriating funds for use under the Foreign Assistance Act of 1961 or the Arms Export Control Act, may be waived if failure to do so would pose a substantial risk to human health or welfare, or would be inconsistent with the need to meet an imminent military threat: Provided, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to this section shall contain an explanation of the circumstances necessitating the use of the authority of this section.

SUPPORT FOR EGYPTIAN MILITARY DEPLOYMENTS IN THE GULF

SEC. 596. (a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) United States deployments in the Persian Gulf are dependent upon the support of United States friends and allies in the region;

(2) deployments of Egyptian armed forces in Saudi Arabia, and Egyptian logistical support for United States air operations in the region, are an essential element to the success of Operation Desert Shield;

(3) Egyptian troops in Saudi Arabia have deployed with United States-made and supplied equipment, which are supplied under United States military loan and grant aid programs;

(4) in addition to their role in support of Egypt's security, these deployments serve direct United States national security interests; and

(5) the forgiveness of debts on United States military aid loans to Egypt will enhance Egypt's ability to maintain deployments in Saudi Arabia and is in the direct national security interests of the United States.

(b) DEBT.—Notwithstanding any other provision of law—

(1) the Secretary of Defense shall (A) issue to the Secretary of the Treasury sufficient notes or other obligations to purchase all

notes made by Egypt evidencing amounts owed by Egypt to the United States (or any agency of the United States), other than amounts already owed to the Secretary of Defense, as a result of loans made before October 1, 1990, by the United States (or any agency of the United States) to Egypt under the Arms Export Control Act (all such loans being hereinafter collectively referred to as the "AECA Loans") and (B) purchase all such notes made by Egypt, such purchase being considered in discharge of the responsibilities of the Secretary of Defense as guarantor of such notes;

(2) the President shall thereupon cancel all amounts owed by Egypt to the Secretary of Defense as a result of all AECA Loans; and

(3) the President shall also cancel all amounts owed by the Secretary of Defense under all notes or other obligations issued by the Secretary of Defense to the Secretary of the Treasury that are related to any guarantees of any AECA Loans, including all notes or other obligations issued under paragraph (1).

KENYA

SEC. 597. Notwithstanding any other provision of law, none of the funds appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program", may be made available for Kenya unless the President certifies, and so reports to the Congress, that the Government of Kenya is taking steps to—

(1) charge and try or release all prisoners, including any persons detained for political reasons;

(2) cease any physical abuse or mistreatment of prisoners;

(3) restore the independence of the judiciary; and

(4) restore freedoms of expression.

POLICE TRAINING FOR EAST CARIBBEAN REGIONAL SECURITY SYSTEM

SEC. 598. Section 660 of the Foreign Assistance Act of 1961 is amended by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting "; or" in lieu thereof, and by adding the following paragraph at the end of the subsection:

"(4) with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states.".

ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 599. (a) It is the sense of the Congress that the President's Enterprise for the Americas Initiative could encourage and support market-oriented reform and economic growth in Latin America and the Caribbean through inter-related actions to promote investment reforms, debt reduction and environmental protection.

(b) It is further the sense of the Congress that the President's proposal for the Enterprise for the Americas Initiative should be given prompt consideration.

EXCESS DEFENSE ARTICLES

SEC. 599A. (a) The Congress finds that impending changes in the United States armed forces are likely to result in increased availability of excess defense articles to meet security assistance requirements. The Congress urges the President to make maximum use of available excess defense articles as a cost-effective supplement to funded security assistance programs to meet the legitimate defense requirements of eligible allies and friends. Accordingly, the President is urged to establish policies and procedures to ensure that excess assets are applied against such requirements. Accordingly, the Foreign Assistance Act of 1961 is amended as follows.

(b) Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding the following at the end:

"SEC. 519. ADDITIONAL AUTHORITIES RELATING TO MODERNIZATION OF MILITARY CAPABILITIES.—(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law (except title V of the National Security Act of 1947) and subject to subsection (b), the President may transfer to countries for whom a foreign military financing program was justified for the fiscal year in which the transfer is authorized, such excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries, in accordance with the provisions of this section.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President determines that transferring the articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) NOTIFICATION TO CONGRESS.—The President shall notify the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives fifteen days before transferring excess defense articles under subsection (a), in accordance with the regular notification procedures of those committees.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles under this section.

"(e) ANNUAL REPORT.—Commencing in 1991, not later than December 15 of each year, the President shall transmit to the committees described in subsection (c) a report with respect to the previous fiscal year which contains—

"(1) a list of the countries to which the President has furnished excess defense articles under the authority of this section; and

"(2) the value of the excess defense articles that were furnished to each such country.

"(f) TRANSPORTATION AND RELATED COSTS.—(1) Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling and transportation of excess defense articles transferred under the authority of this section.

"(2) Notwithstanding section 632(d) or any other provision of law, the President may direct the crating, packing, handling and transport of excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the excess defense articles are being provided to that country under the authority of this section.".

(c) In section 31(d) of the Arms Export Control Act, insert the following after the word "law" ", and of any defense articles with respect to which the President submits a certification under section 36(b) of this Act.".

JUDICIAL REFORM IN EL SALVADOR

SEC. 599B. (a) JUDICIAL REFORM PROGRAM.—An amount equivalent to 10 percent of the United States military assistance deposited in the Fund established pursuant to section 531(f) of this Act may be obligated and expended to assist in the carrying out of judicial reforms in El Salvador as described in this subsection only if the President certifies to Congress by October 1, 1991, that—

(1) the Government of El Salvador has satisfied the Commission established in subsection (c) of this section that significant progress in establishing an independent civilian judiciary and prosecutorial and investigative system has been made. For purposes of this paragraph "significant progress" means certification by the Commission that—

(A) the Legislative Assembly and the Supreme Court are acting to consider the National Legislative Revisory Commission (CORELESAL) proposals which should include admission of co-conspirator testimony in murder cases and a commitment to the reform of labor law;

(B) the Salvadoran Government has reactivated the Judicial Protection Unit and that the safety of judges and witnesses is being adequately provided;

(C) the procedures for detaining suspects and the treatment of detainees are in compliance with standards set forth by the U.N. Human Rights Commission; and

(D) the Government of El Salvador has devised and commenced implementation of a plan to place the police force under civilian control, including the time period within which such plan is to be implemented and the actions that will be taken to effect its implementation; and

(2) the conditions set forth in section 538 of this Act with respect to investigation of murders are satisfied and reported by the President to the Committees on Appropriations.

(b) REFORMS.—Assistance for judiciary reform pursuant to subsection (a) shall be administered through the Administration of Justice program to support activities which further the progress described in paragraph (1).

(c) ESTABLISHMENT OF BIPARTISAN COMMISSION.—(1) ESTABLISHMENT.—There shall be established a Bipartisan Commission no more than 30 days after enactment of this Act to study, advise, and make recommendations in accordance with subsection (a) that significant progress in establishing an independent civilian judiciary and prosecutorial and investigative system has been made.

(2) COMPOSITION.—The Commission established by this subsection shall be composed of four members—one to be appointed by the Speaker of the House, one to be appointed by the House Minority Leader, one to be appointed by the Senate Majority Leader, and one by the Senate Minority Leader.

(3) FUNDING.—Funds for the Commission established by this subsection shall be derived from unobligated fiscal year 1990 Economic Support Funds for the Administration of Justice program in El Salvador.

EXTENSION OF PROVISIONS

SEC. 599C. (a) Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended—

(1) in subsection (b)(3), by striking "fiscal year 1990" and inserting "for each of fiscal years 1990, 1991, and 1992", and

(2) in subsection (e), by striking "October 1, 1990" each place it appears and inserting "October 1, 1992".

(b) Section 599E(b)(2) of such Act is amended by striking "September 30, 1990" and inserting "September 30, 1992".

EXPEDITED RELEASE OF EQUIPMENT

SEC. 599D. (a) Notwithstanding any other provision of law, property supplied under any United States military assistance program, Foreign Military Financing program or the Special Defense Acquisition Fund shall be offered first to NATO allies which are contiguous to Iraq and to major non-NATO allies on the southern and southeastern flank of NATO which do not receive financial assistance from any country in the Near East region before being made available to any other country or entity not subject to United States jurisdiction.

(b) Any country eligible under subsection (a) shall be able to use any funds made available to it by the United States under any military assistance program for the removal, transport and installation of such excess property.

(c) For the purposes of this provision, the term "property" shall include excess defense articles and temporary shelters.

(d) In the administration of this provision, the Department of Defense shall take such measures as are necessary to expedite the transfer of equipment referred to in subsection (a).

ASSISTANCE FOR YUGOSLAVIA

Sec. 599E. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to provide any direct assistance to the Federal Republic of Yugoslavia: Provided, That for purposes of this section, the prohibition on obligation or expenditures shall include direct loans, credits, insurance, and guarantees of the Export-Import Bank of the United States or its agents: Provided further, That the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any assistance of the respective institution to the Federal Republic of Yugoslavia: Provided further, That this section shall not apply if substantially all of the assistance provided to any program, project, or activity is used in a Yugoslav Republic which has held free and fair elections and which is not engaged in the systematic abuse of human rights: Provided further, That this section shall not apply to assistance intended to support democratic parties or movements, emergency or humanitarian assistance, or the furtherance of human rights: Provided further, That this section shall not apply if the Secretary of State certifies to the Congress that the Federal Republic of Yugoslavia is in compliance with the obligations of the Helsinki Accords.

## TITLE VI—INTERNATIONAL FORESTRY COOPERATION

SEC. 601. SHORT TITLE.

This title may be cited as the "International Forestry Cooperation Act of 1990".

SEC. 602. FORESTRY AND RELATED NATURAL RESOURCE ASSISTANCE.

(a) FOCUS OF ACTIVITIES.—To achieve the maximum impact from activities undertaken under the authority of this title, the Secretary shall focus such activities on the key countries which could have a substantial impact on emissions of greenhouse gases related to global warming.

(b) AUTHORITY FOR INTERNATIONAL FORESTRY ACTIVITIES.—In support of forestry and related natural resource activities outside of the United States and its territories and possessions, the Secretary of Agriculture (hereinafter referred to in this title as the Secretary) may—

(1) provide assistance that promotes sustainable development and global environmental stability, including assistance for—

(A) conservation and sustainable management of forest land;

(B) forest plantation technology and tree improvement;

(C) rehabilitation of cutover lands, eroded watersheds, and areas damaged by wildfires or other natural disasters;

(D) prevention and control of insects, diseases, and other damaging agents;

(E) preparedness planning, training, and operational assistance to combat natural disasters;

(F) more complete utilization of forest products leading to resource conservation;

(G) range protection and enhancement; and

(H) wildlife and fisheries habitat protection and improvement;

(2) share technical, managerial, extension, and administrative skills related to public and private natural resource administration;

(3) provide education and training opportunities to promote the transfer and utilization of scientific information and technologies;

(4) engage in scientific exchange and cooperative research with foreign governmental, educational, technical and research institutions; and

(5) cooperate with domestic and international organizations that further international programs for the management and protection of forests, rangelands, wildlife and fisheries, and related natural resource activities.

(c) ELIGIBLE COUNTRIES.—The Secretary shall undertake the activities described in subsection (b), in countries that receive assistance from the Agency for International Development only at the request, or with the concurrence, of the Administrator of the Agency for International Development.

SEC. 603. TROPICAL DEFORESTATION ASSESSMENT AND ASSISTANCE.

In support of the Tropical Forestry Action Plan and to specifically address tropical deforestation and degradation, the Secretary may—

(1) support and actively participate in global and regional meetings that seek to reform such Plan;

(2) together with the United States Agency for International Development, and other Federal agencies, provide technical assistance to tropical countries for the formulation of national forestry sector development strategies; and

(3) cooperate with tropical countries on research, training, and technical programs aimed at implementing national forestry sector development strategies.

SEC. 604. INSTITUTE OF TROPICAL FORESTRY.

(a) EXPANSION.—The Secretary shall expand the capabilities of and construct additional facilities at the Caribbean National Forest and Institute of Tropical Forestry in Puerto Rico, as the Secretary determines necessary to support the purpose of this title, and as funds are appropriated for such expansion and construction.

(b) TROPICAL FORESTRY PLANS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and to the Committees on Appropriations of the Senate and House of Representatives, a tropical forestry plan for the expansion and construction of additional facilities under subsection (a). Such plan shall include provisions for—

(1) the construction or acquisition of a major center for education, interpretation, and appreciation of the benefits and methods of the intelligent management of tropical forests;

(2) the acquisition or construction of facilities for housing and classroom instruction near the Caribbean National Forest/Luguillo Experimental Forest; and

(3) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish and plant species.

SEC. 605. ADMINISTRATIVE PROVISIONS.

(a) COORDINATION OF ACTIVITIES.—The Secretary shall coordinate all activities outside of the United States under this title with other Federal officials, departments, agencies, and international organizations, as the President may require.

(b) ASSISTANCE.—The Secretary may provide assistance, as determined appropriate by the Secretary to carry out this title, including technical and financial assistance, equipment, and facilities without reimbursement.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 607. CONFORMING AMENDMENTS.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT.—The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended—

(1) in section 2 (16 U.S.C. 1641)—

(A) by inserting "(1)" after "(a)";

(B) by adding at the end of subsection (a) the following new paragraph:

"(2) Congress further finds that the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other uses, over-grazing, over-harvesting, and other causes that pose a direct adverse threat to people, the global environment, and the world economy."; and

(C) by adding at the end thereof the following new subsection:

"(c) It is the purpose of this Act to authorize the Secretary to expand research activities to encompass international forestry and natural resource issues on a global scale."; and

(2) in the first section of section 4(c) (16 U.S.C. 1643(c)), by inserting "international," before "Federal".

(b) COOPERATIVE FORESTRY ASSISTANCE ACT.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. et seq.) is amended—

(1) in section 2(a)—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

*"(18) the same forest resource supply, protection, and management issues that exist in the United States are also present on an international scale, and the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other purposes, over-grazing, over-harvesting, and other causes which pose a direct adverse threat to people, the global environment, and the world economy";*

*(2) in section 2(b), by inserting "in the United States, and forest lands in foreign countries," after "non-Federal forest lands," the first place it appears and in paragraph (10); and*

*(3) in section 12, by adding at the end thereof the following new subsection:*

*"(h) In addition to the authority provided elsewhere in this Act, the Secretary may provide assistance to other countries with respect to the activities described in paragraphs (1) through (10) of section 3(b), paragraphs (1) through (5) of section 7(b), and paragraphs (1) through (3) of section 9(b). For the purposes of providing assistance to other countries under this subsection, the term 'non-Federal forest land' shall mean any forest land and related renewable natural resources in such countries. In providing the assistance authorized under this subsection, the Secretary shall coordinate with other Federal officials, departments, agencies, or international organizations, as the President may direct. The references to 'State foresters or equivalent State officials' in this Act shall not apply to the assistance provided by the Secretary to other countries under this subsection.".*

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991".

Mr. MITCHELL. Mr. President, the distinguished chairman of the subcommittee, Senator LEAHY, will be managing this bill and will open consideration of the bill. Shortly thereafter, we will proceed to the discussion on the committee amendment described in detail in the unanimous-consent request, which will be managed by Senator MIKULSKI and Senator HUMPHREY. Senator LEAHY is also participating, as chairman of the Agriculture Committee, in the farm bill conference which is going on in a room just off the Senate floor and will not be able to manage during this portion of the debate but hopefully as soon as the farm conference is completed will be able to return to manage the remainder of the legislation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the bill before the Senate is the fiscal year 1991 Foreign Operations, Export Financing, and Related Activities appropriations bill. It was unanimously reported by the Appropriations Committee on Wednesday, October 10, 1990.

The bill is within the Foreign Operations Subcommittee's 302(b) allocations of $14.7 billion in discretionary budget authority and $12.9 billion in discretionary outlays. That is a reduction of $130 million from the level appropriated for foreign assistance last year.

The bill is precisely at the allocation. There is no room whatsoever for additional spending. Any increase in any programs in the bill will have to be offset by corresponding deductions. We will consult carefully with the Budget Committee on amendments, and I will have no choice but to raise a Budget Act point of order against any amendment which would cause the bill to exceed its 302(b) allocation. I believe I would have the full support of Senator KASTEN on such a point of order.

Mr. President, this bill is jointly supported by myself and Senator KASTEN, whose help in putting it together was invaluable. He and I have developed a close working relationship over the last 2 years, and I thank him and his staff for their cooperation and friendship.

This bill is never easy to put together, and this year was no exception. The Foreign Aid Program has few friends, particularly in times of budget constraints at home. Yet, foreign aid is an important instrument of U.S. foreign policy, a manifestation of the generosity and good will of the American people toward those in need, and an arm of U.S. economic and commercial policy abroad. Foreign aid has no powerful special interest groups or broad constituency to lobby for it. But it is indispensable if we are to help strengthen democracy around the world and open markets to U.S. trade and investment.

Neither Senator KASTEN nor I are completely satisfied with this bill. That is the essence of bipartisanship. But I think we have a bill which meets essential foreign policy needs, and contributes toward the process of reshaping U.S. foreign aid in new directions more in line with the changing world.

Mr. President, in the interest of saving time I will not make a lengthy opening statement. The majority leader has said he wants to finish action on this appropriations bill today, and we all need to be brief and to the point if we are to do that.

There are a number of issues which will be debated, including language I developed with Senator DODD which withholds 50 percent of military aid to El Salvador, a $15 million contribution to the U.N. Population Fund, and U.S. assistance policy toward the Cambodian factions. The sooner we get started on disposing of these items the better.

I am willing to enter into time agreements, the briefer the better, if that is the will of the leadership.

Mr. President, for the sake of my colleagues, so they will understand what is going on, we will be going to the so-called UNFPA amendment under an agreement that the distinguished leader and others have worked out, and the distinguished Senator from Maryland [Ms. MIKULSKI], will manage that part of the bill.

Following that, there will be a number of other issues I would manage, including Egyptian debt relief and others. On those matters, the schedule is somewhat uncertain because I will be required to be here to manage the bill on those parts.

I can be in only one place at a time and I intend to complete the farm bill conference tonight. I will not be able, once I leave here, to come back, other than for a rollcall vote on the UNFPA issue until the farm bill conference is over, so neither Egyptian debt nor those other issues will be completed until we finish the farm bill conference. But I must say we have had tremendous cooperation from the Democrats and Republicans alike on the farm bill and I think that could be done.

Before I make the usual unanimous-consent requests, I am going to want to yield first to the distinguished Senator from Wisconsin, my good friend, Senator KASTEN. I do this not only because it is the tradition, but I must say that it would be impossible to bring this bill to the floor had it not been for the help and the expertise and knowledge of Senator KASTEN. We worked very closely together on this. We do not agree on all parts of it by any means, but we have put together a solid piece of legislation which advances the foreign policy interests of the United States. I think it is safe to say we have done it with the best spirit of bipartisanship. We tried to follow the tradition of our distinguished predecessor, Senator Vandenberg.

As we have told President Bush when we talked with him about this, we have left our party labels at the water's edge in trying to get this bill completed. It is not an easy time to do it. We have enormous budget pressures in this country. Americans are being asked, on the one hand, to cut way back Government spending on needed programs inside the United States but at the same time expending some $15 billion for programs of foreign aid.

That is not an easy salad to make. But we have certain major matters of this country that have to be taken care of.

I would like some of those directions in our foreign policy to be different than that of the administration. They would like some areas to be different than some of the things that I may have included in here. Overall, however, we all come to this bill with one thought in mind: What is in the best interests of the United States; what advances our security interest and our role as a world power, in fact the world power, today?

With that, I yield to my good friend from Wisconsin, the distinguished senior Senator from Wisconsin.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I would first like to thank Senator LEAHY and his staff for their assistance and cooperation throughout this process.

As he already said, we have worked closely together, and I appreciate and respect his leadership and the fine work he has done.

This is never an easy bill to put together. While we still have some significant differences on some issues, I think we have been able to compromise on 95 percent of the issues in this legislation.

This legislation does contain a number of provisions which I cannot support, including those relating to El Salvador, the one allowing support for the coercive population program in China, the absence of aid to the non-Communist resistance in Cambodia, and some minor issues which other Members may address with amendments.

On the other hand, there are many provisions which I strongly support and which Senator LEAHY and I worked on together. These include an increase in funding for population planning, and a generous increase for the Development Fund for Africa. We also have provided for an increase in the Direct Loan Program of the Export-Import Bank.

In conclusion, this legislation, absent the problems I have cited, is responsive to the foreign policy objectives of the United States, and I would ask my colleagues to support passage as soon as possible so we can move to conference.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished Senator from Wisconsin.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of: first, the amendment pertaining to the withholding of funds for the International Bank for Reconstruction and Development, page 2, lines 12 through 20; second, the amendment pertaining to funding of UNFPA, page 10, line 20 through page 11, line 16; third, section 531 relating to El Salvador; fourth, section 562 relating to Cambodia; fifth, section 590 relating to administrative charges of personnel; sixth, the sections immediately preceding and following section 596, relating to Egyptian debt, and section 596 relating to Egyptian debt, and that they be considered as original text for the purpose of further amendment; and that no points of order be waived thereon.

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

Mr. LEAHY. Mr. President, I understand the bill now is open to further amendment and debate; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, I ask unanimous consent that the excepted committee amendments be temporarily laid aside, and that I be recognized to offer a technical amendment in behalf of Senator KASTEN and myself.

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

AMENDMENT NO. 2965

Mr. LEAHY. 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 Vermont [Mr. LEAHY], for himself and Mr. KASTEN, proposes an amendment numbered 2965.

Mr. LEAHY. 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 5, line 8, strike "$271,382,000" and insert in lieu thereof "$187,882,457";

On page 31, line 9, strike "$3,080,000,000" and insert in lieu thereof "$3,141,000,000";

On page 45, line 6, strike "$26,500,000" and restore the House amount of $35,000,000; and

On page 56, line 1, insert, in italics, *"further,"* after *"Provided";* and restore the House language beginning with "That" through "purposes and" on line 3.

On page 64, line 21, strike ": *Provided further*" and all that follows through "1961" on page 64, line 24.

Mr. LEAHY. Mr. President, this amendment is necessary to make adjustments in the bill to reflect the CBO budgetary estimate which was not available until after the committee reported the bill on October 10. These changes have been cleared with the Budget Committee, do not affect our bill totals, budget authority, and outlays.

I ask for its approval.

The PRESIDING OFFICER. Is there further debate on the amendment? If not the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 2965) was agreed to.

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from Maryland [Ms. MIKULSKI].

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I, under the consent agreement, will be managing this part of the bill on the U.N. family planning amendment. Is it my understanding that I will speak for 15 minutes; that this side is allowed 15 minutes?

The PRESIDING OFFICER. The Chair informs the Senator from Maryland that under the previous order the first excepted committee amendment is the pending business, the pending amendment before the Senate. So we have not yet reached the amendment which the Senator desires to have considered at this point.

Ms. MIKULSKI. I ask unanimous consent to lay aside the first amendment and proceed to the U.N. family planning amendment.

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

The Senator is recognized.

Ms. MIKULSKI. Being recognized, is it my understanding that we have a time agreement for a total of 30 minutes equally divided on both sides?

The PRESIDING OFFICER. The Senator is correct.

Ms. MIKULSKI. Thank you, Mr. President. Proceeding under that framework, I yield myself such time as I might consume under the allocation.

EXCEPTED COMMITTEE AMENDMENT, PAGE 10, LINE 20

Mr. President, I am rising to speak in behalf of the Mikulski-Leahy language that would include the U.N. family planning—Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. If Senators will retire off the floor to conduct their private conversations, the Senator from Maryland has the floor for such time as she deemed to set aside for herself under the previous order.

Ms. MIKULSKI. Mr. President, the Mikulski-Leahy legislation on U.N. family planning provides $15 million to go into the U.N. agency devoted to family planning. It is for voluntary family planning consistent with the Universal Declaration of Human Rights, meaning no coercion.

Under this legislation, as drafted, no funds may be used for abortions. The U.S. funds would be held in a separate account. And there would be no United States funds for China. If any funds find their way to China, the U.N. Population Fund must refund the full $15 million to the United States.

In terms of it being fungible, the UNFPA has set a 5-year China funding at $57 million. If that amount increases, U.S. funding will be reduced by that amount.

There will be those who oppose this legislation because they say giving money to the U.N. Population Fund will provide money to go to China, where we have heard allegations of the most repugnant practices: coerced abortions, forced sterilizations. I think any American would find that repugnant. I certainly do.

But we want to be sure that the United States participates in the U.N.

Population Fund. That is why we are talking about only a modest sum of $15 million, and we have essentially fenced it at the United Nations so that it could not go to China.

The reason we are advocating funds for the U.N. Population Fund is because it is the most efficient way to bring about some of the important policy objectives that we want.

It is the most effective way to deal with issues related to maternal health. It is the most effective way to lower the rates of abortions. It is the most effective way for the United States to deal with the global population explosion.

First of all, UNFPA helps deal with family planning in 138 countries. The United States has bilateral programs in only 37. The UNFPA has the infrastructure and expertise and personnel that the United States can neither duplicate, nor should it try. Since the U.N. Population Fund was founded, the world birth rate has significantly declined. It has trained an army of family planning workers in all countries.

The demand for culturally acceptable contraceptives is high, if only we can provide them. Mr. President, 500 million women who want them are denied family planning services; 75 percent of women in Asia and Latin America would use family planning services, if available. The best way to reach them is through the UNFPA.

Certainly, if we can use the United Nations to keep the peace in the Middle East, we can use the United Nations to deal with the global population explosion.

Mr. President, today's population of 5.3 billion will double in less than 40 years. That means that this week alone, we added over a million and a half people. Ninety percent of those births will be in the developing world, which cannot handle more people; 512 million children in those countries today are severely malnourished; 40,000 children die each year because of being unwanted, because of malnutrition, and because of the inability to care for them with the proper medical treatment.

Mr. President, we are talking about funding an opportunity that would take us into 138 countries to provide culturally acceptable means of family planning. We would follow meticulously the U.N. Declaration of Human Rights. And for those of us who call ourselves environmentalists, for those of us who call ourselves statesmen, participation in family planning is absolutely critical, and it is one of the most important tools that the women of the world can use to control their own destiny.

Mr. President, I yield the floor. I know opponents of the provision will speak, and I reserve the right to control the time for other Senators who might speak, and to rebut.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. I yield such time as I might use, Mr. President.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HUMPHREY. The issue presented by this amendment presents a very large and and very important principle. There is a very important principle at stake in the matter now before the Senate. Here is the principle: coercive abortion and coercive sterilization is wrong. Involvement of the United States in programs that feature coercive abortion and coercive sterilization is wrong. The United States should not be involved in any way, directly or indirectly, with such grievous violations of human rights.

The issue before us, the amendment before us, is not a question of money. The committee amendment earmarks, $15 million to the U.N. Population Fund, UNFPA. It earmarks $15 million out of a total of $250 million in the bill for population planning. Whether we strike the earmark or leave it standing, the full $250 million will be spent on family planning. The only question to be decided here is whether Senators want to take $15 million from the total of $250 million and earmark it for one specific agency, UNFPA.

I urge Senators to oppose the earmark, to oppose it on the principle which I just enunciated: that coercive abortion and sterilization is a gross and grievous violation of human rights and something with which the United States should not be involved in any way, to any degree.

If we strike the committee amendment not pending, the full $250 million unearmarked, all of it, every dollar, every penny, will be spent on family planning programs. The question is not one of money or the level of funding for family planning programs. The question before us is much more than just this specific earmark for UNFPA. The question before us is morality. Shall we involve the United States in a program that resorts to forced abortions and forced sterilization? That is the question, and the answer should be a resounding no.

The pending committee amendment would, for the first time since 1985, reestablish U.S. funding for the UNFPA. That agency bankrolls the reprehensible policy of forced abortion and sterilization carried out in the People's Republic of China.

Mr. President, since 1985, there has been a statutory prohibition known as the Kemp-Kasten amendment, against such funding going to "any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization."

Every year, the respective administrations have found compelling evidence that the population program of the PRC is pervaded by coercion, including compulsory abortion. And these administrations, therefore, have declared that UNFPA is not eligible for population assistance funds because of its support and management of China's program.

On June 7, 1989, at a meeting of the U.N. Development Program Governing Council, the administration refused to restore United States funding to UNFPA as it related to China. The administration's delegate, Dr. Nyle Brady said:

> We strongly oppose the program as currently formulated and disassociate ourselves unequivocally from any interpretation of this body's consensus that suggests we approve the family planning program of the People's Republic of China.

Well, Mr. President, President Bush, and before him, President Reagan, did not make these determinations lightly. The administration, after all, supports the full expenditure of the money in this bill for family planning activities, $250 million. But the administration opposes funding of one agency out of the many such agencies eligible to receive funds under this bill, namely the UNFPA.

The damning evidence backing up the President's finding, which proves that these repugnant policies persist, continues to mount in 1990. In the 1990 State Department Human Rights Report, there is the finding that China continues to systematically employ coercion in its population control program and to impose "severe sanctions on those who deviate from official guidelines."

The report found that disciplinary measures against couples who violate this policy include stiff fines, withholding of social services, and demotion. If a unit exceeds its birth allocation, punishment may be meted out to offending couples, unit officials, and to the unit as a whole.

Chinese Government officials have publicly conceded that they rely on coercive abortion and sterilization in one component of their population control program: eugenics.

As the New York Times reported in a page 1 story on November 21, 1989, Gansu Province officials admit that they are "aggressively enforcing" the law, which requires retarded people to submit to sterilization and/or abortion. In February 1990 the United Press International reported that Lianoning Province has enacted a similar law, and that the national legislature is expected to do so as well. As UPI reported, "China has indicated it views eugenics as a practical tool and

has indicated Gansu will serve as a model for a national eugenics policy."

Mr. President, the problem is the population control program itself—it is based on the notion that decisions about childbearing should be made by the Government and its representatives, and not by parents. In this it violates the fundamental charter of the UNFPA, which states that family planning decisions should be left to families.

Currently, the compulsory abortion policy is being applied with special brutality in Tibet. On February 26, 1989, the Washington Post published an essay by Dr. Blake Kerr, an international human rights activist, citing credible eyewitness testimony regarding a mobil team of People's Republic of China population control agents who forcibly aborted every pregnant woman in a village, including those 9 months pregnant. I will read a brief excerpt from that essay:

A particulary appalling story I heard came from a part of refugee Buddhist monks, Ngawang Smanla and Twewang Thonden. "In the autumn of 1987," they told me, "a Chinese birth control team set up their tent next to our monastery in Amdo. The villagers were informed that all women had to report to the tent for abortions and sterilizations or there would be grave consequences. For the women who went peacefully to the tents and did not resist, medical care was given. The women who refused were taken by force, operated on, and no medical care was given. Women 9 months pregnant had their babies taken out."

During the 2 weeks the birth-control tents stood in the village, the monks claimed that all pregnant woman had abortions followed by sterilization, and every woman of childbearing age was sterilized. "We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible.

"The birth control teams were initiated in 1982," the monks continued, "but since 1987 there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad areas."

Mr. President, even Senators predisposed in favor of abortion rights as a choice recognized the horror of Chinese policies.

In his 1990 book entitled "Abortion: The Clash of Absolutes", Harvard law professor Lawrence Tribe writes:

China's one family, one child and compulsory abortion policies greatly undermine the well-being of the couples who bear daughters. Prevented by the State from having additional children, couples to whom daughters are born have increasingly resorted to the drowning or abandonment of their infant girls, thus entitling them to another attempt at a son, greatly adding to the age-old practice of female infanticide.

Mr. President, I recognize that the language before us makes an exception to funds for programs in the PRC. It is an effort in effect to fence this $15 million, but the fence is so full of holes, is such a puny, ineffective fence that it is no fence at all. With this so-called China exception, the UNFPA would receive $15 million while continuing to support China's coercive program. The UNFPA would merely have to keep its books in such a fashion that our money was segregated. In effect, this would give the UNFPA a green light to support coercive abortion policies in China or elsewhere without jeopardizing its United States funding.

Mr. President, I need not tell Senators, of all people and all public servants, that money is fungible. Segregating money into two separate accounts has no practical effect when you are intending, by segregating funds, to uphold certain important principles.

Senators will recall that we went through this very same exercise last year. The President threatened to veto the bill if the bill contained an earmark for UNFPA. Notwithstanding the veto threat, the Congress earmarked the money. The President, true to his word, vetoed the bill and so we had to pass the bill twice. This year again the President has said he will veto the bill if it contains the pending committee amendment. It is important. I will repeat it. The President has said by letter that, if the bill contains the pending committee amendment, he will veto the bill and all of this effort we consume tonight and maybe tomorrow and several days next week will be for naught because we will have to do it again unless, of course, we can override the President's veto. I hope that would not occur.

The President will veto this bill, Mr. President. I will read from the OMB letter dated October 10 to Senator DOLE from the office of OMB:

The administration opposes the earmarking of $15 million for the United Nations Population Fund [UNFPA]. The President stated in his June 26 letter to Congressman Obey that he will veto this bill if either policy is changed.

He was referring there to Kemp-Kasten and the Mexico City policy.

The reason for that, Mr. President, is very simple and very clear and, in my view, very correct. The administration's opposition to abortion as a method of family planning is an important matter of principle to this administration. Using a segregated account or other complicated procedures to provide support for UNFPA would be perceived as a transparent bookkeeping business transaction and would undermine U.S. opposition to coercive abortions.

So Senators should be clear on this point, Mr. President. If the committee amendment now pending is adopted, which is to say that if the cloture vote succeeds, and under the UC the amendment is therefore adopted, the amendment will be adopted and the President will veto the bill. If cloture fails, the amendment under the UC will be dropped. Those opposing the amendment, those who do not wish the President to veto this bill, will vote against cloture. Again, if the cloture vote fails, under the consent agreement the amendment will be dropped. Again, Mr. President, this issue is in no way connected with money. I think everyone here, including the President downtown, supports the full expenditure of all $250 million. What is at stake here is solely and exclusively this earmark for one agency, the UNFPA.

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

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I yield to the Senator from Colorado 5 minutes and note that the Senator from Colorado has been an ardent advocate in this issue, and we appreciate very much his support. I yield to the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. WIRTH. I thank the distinguished Senator from Maryland, who has been a leader on this and so many other issues enormously important to all of us in this country.

Forced abortions has an ominous sound indeed, but not in this bill, Mr. President. There is nothing in this bill related to forced abortions. Coerced abortions, dangerous indeed, Mr. President, but not in this legislation. There is nothing in this legislation related to the dangerous issue of coerced abortions. Forced sterilization; again, an ominous sound and abhorrent, I believe, to all of us. But nothing in this bill relates to forced sterilization or compulsory abortion or fetuses outside of tents in Tibet. Or female infanticide. All of those are repugnant to everybody here, Mr. President, but have nothing to do with what is in this piece of legislation. Those are appalling stories read by the distinguished Senator from New Hampshire, but they have nothing to do with this amendment.

What this amendment does, Mr. President, and let me again read the language of the amendment, what this amendment says is "None of the funds made available under this heading shall be made available for programs for the People's Republic of China." Let me repeat. "None of the funds made available under this heading shall be made available for programs for the People's Republic of China." How many times does that have to be said?

Second, Mr. President, the UNFPA—and I have talked to Nafis Sadik, that charming, sophisticated, and very, very distinguished women who is the head of the UNFPA—this program has not even requested the United States to give them any money for its pro-

gram in China. UNFPA's programs for China are fully funded from other sources. They do not want any participation or any help from us. So neither is there any money in here for all of the horrors cited by the distinguished Senator from New Hampshire, but the UNFPA does not need any money for this particular program.

A lot of this debate focuses on what this is not, and I hope, Mr. President, that as Senators cast their vote on this important issue, they cast their vote recognizing what this is. This is, first of all and most simply, a statement for the United Nations. We are asking the United Nations to support and work in a new world community in the Persian Gulf and elsewhere. I hope that we will rejoin the world community of the United Nations by joining UNFPA.

We have been out of this for a long time and yet we say to the world we are a world leader. Now the only superpower remaining, we have a responsibility to rejoin this world community, particularly as we redefine our whole sense of national security and come to understand it is not our relationship with the Soviet Union and nuclear confrontation, it is our understanding of what is happening to this globe, the fact that the environmental and energy challenges are redefining that national security, particularly the burgeoning and very dangerous escalation of population around the world; 5.3 billion people now. In a very short period of time, if we do not act rapidly, the population will soon go to 10 billion people.

What is going to happen to the standard of living; what is going to happen to the world environment as we know it; what is going to happen to our security, Mr. President, when another 5 billion more people in the world are demanding these very resources?

If we think environmental refugees are a problem now, that is going to escalate dramatically. If we think political unrest is here now, that is going to escalate dramatically, all of these elements. And we have an opportunity, with a small bit of prevention, to make an enormous difference.

That is what this amendment is all about; not fetuses outside of tents in Tibet; not coerced abortion; not forced sterilization. That has nothing to do with it.

A final point, if I might, in the time remaining to me. There has been a great deal of talk in the budget debate of the last 2 weeks about how we have to think of a broader interest. Every one of us has been asked to think not about our own constituents, not about particular narrow interests, not about special interests, but a broad interest.

If ever there were an opportunity to think about a broad worldwide interest, this is it; a worldwide interest of enormous import, to be thinking about what is happening to this globe, the rapid and disruptive escalation of the population issue worldwide, and providing women with the opportunity to make choices for themselves.

I urge my colleagues not to be sidetracked by the shrill rhetoric and recognize the language before us has no money going to the People's Republic of China, but it gives us an opportunity as a world power to once again rejoin the world community as we should.

Mr. President, once again we are here on this floor debating a nonissue. The entire debate about whether or not we should contribute to the United Nations Population Fund is absurd.

Undoubtedly, we are going to hear a great deal about forced abortions and involuntary sterilization. I know we will hear about the family planning programs of China. These are smokescreens, Mr. President. On any number of occasions, the United Nations Population Fund has made it clear that it would not contribute U.S. funds to its meager activities in China. The distinguished Senator from Vermont, chairman of the Foreign Operations Subcommittee, has stated that he has no intention of funding the China program. In fact, for the next 5 years, UNFPA's program in China has been fully funded, so that is a moot point.

The issue at hand is whether or not we support funding the world's premier multilateral institution, charged with addressing the dreadful rate of population growth. I understand that the issue of China's population program is upsetting to my colleagues—as it is to me. But not a penny of the funds provided for UNFPA in this act will go toward the China program. Not one cent. It has been stated over and over, ad nauseum.

What has not been made clear is the role UNFPA plays around the world. UNFPA provides family planning services in more than 140 nations around the globe. It is well known that UNFPA is the world's leader in this area. I have met with the executive director of UNFPA, Nafis Sadik, on many occasions. You could not meet a more thoughtful and considerate woman. She is terrific. And if you go to any major conference about the environment or about development, you will meet her because she will be one of the featured speakers.

This debate, once again, highlights the degree to which the United States has ducked its responsibilities to the United Nations and its programs. We want the United Nations to help promote operation Desert Shield and to rally world opinion to our position. And thankfully we have responded by fulfilling our commitment to the United Nations with funding provided in the Commerce, State, Justice appropriations bill. This is another opportunity for us to renew our commitment to the United Nations process and to renew our commitment to sound family planning programs around the world.

I urge my colleagues to support our contribution to the U.N. Population Fund.

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

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

The PRESIDING OFFICER. The Senator from Maryland has 3½ minutes.

Ms. MIKULSKI. I yield myself the remaining time.

Mr. President, the Senator from New Hampshire, who opposes this amendment, outlined case examples that are ghoulish, grisly, and violate every sense of human decency.

We absolutely reject the whole idea of coercive abortion or coercive sterilization. But we should be absolutely clear that there is no money in this bill going to China. Why punish the children or the families of Africa for the abuses that go on in another country? Also, by supporting the U.N. Population Fund, we are not engaged in a global plot to promote abortions. In fact, just the opposite.

Mr. President, those of us in this Chamber and who serve in this body know what family planning is. I would venture to say every Senator and his spouse or her spouse has, at one time, considered, thought about, and even used family planning in their own lives. We know that abortion is not a technique for family planning.

The UNFPA governing counsel says that "It is the policy of the UNFPA not to provide assistance for abortion, abortion services or abortion-related equipment or supplies as a method of family planning. The United Nations does not promote or provide support for involuntary practices as such described."

Mr. President, let me wrap up by also talking about the hypocrisy in this foreign policy debate. China is the big topic tonight. We have a President who vetoed this legislation over China last year, but he is ready to give China most-favored-nation status in terms of trade. He is ready to give them all kinds of goodies in trade and export benefits, and yet he will not allow us to support U.N. family planning because it has a small role in China.

Well, Mr. President, why is it that it is okay for us to consider giving most-favored-nation status to China in trade, but we cannot help the women of the world deal with their own lives and perhaps through this improve their lives? I think it is hypocritical.

In the next few minutes, Mr. President, we are going to be talking about El Salvador. Now, Mr. President, an-

other area of hypocrisy is the way we have supported dictators, tyrants and totalitarian regimes around the world—where they have death squads that will go into villages and perform the most ghoulish atrocities against women. And El Salvador is one of those countries.

I know that my time is up. But in El Salvador not only do they kill Jesuits, they rape women, they maim women, and do cruel and ugly and repulsive things to pregnant women. So if we are going to refuse to support U.N. family planning efforts, we should also refuse to support aid going to El Salvador.

I hope we adopt the motion for cloture, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I will start off by saying once again, if this amendment is adopted, if cloture is invoked, the President is going to veto this bill. Senators who want a bill now rather than in 2 weeks, might wish to vote against cloture.

More importantly, I hope Senators will vote for reasons of principle against cloture, so that this amendment will drop. China is clearly involved in coercive abortion. This amendemnt would earmark $15 million for the UNFPA which helps to manage that Chinese policy. That our funds are segregated on the books makes no difference with regard to principle; none. It is a sham. President Bush will veto this bill if the amendment is adopted.

I point out finally that, earmark or no earmark, all $250 million is going to be spent on family planning. It is just that the UNFPA will not get $15 million of it. It will go to another agency.

Mr. KOHL. Mr. President, we live in a world which has undergone tremendous changes in the past few years: The Berlin Wall has come down and Germany has been unified; the East bloc has crumbled and the Baltic States, as well as the Republics within the Soviet Union, have started the process of achieving independence. In short, the anti-Communist orientation which formed American foreign policy for over four decades is no longer the driving force it once was. It has lost its intellectual and political ability to dictate American foreign policy.

We have yet to adapt to this new world of geo-politics. Even the committee report which accompanied this legislation, while obviously recommending its passage, pointed out that "a searching review of all facets of the U.S. foreign assistance program needs to be undertaken on an urgent basis." Indeed, the Committee expressed the hope that "the foreign assistance request for fiscal year 1992 will be much more reflective of the new world into which we are entering."

Some, however, are uncomfortable with this transition period. They seek a simple way to anchor American policy in some consistent framework. Unable to find that framework in the global confusion of the post-cold war world, they retreat to a narrower view. And so, while the world changes around us, we spend a few hours debating—yet again—that old standby of family planning and abortion.

Now Mr. President, I wish the issue was worth the time we are going to spend on it. But it isn't; it really isn't. The bill before us now is very carefully crafted: it is not a proabortion bill. For just a moment, let's ignore the rhetoric and look at the language of the legislation. In a moment I want to address the amendment now before us; but initially let us consider a few other related provisions of the bill. Section 525 makes it clear that "none of the funds appropriated under this Act may be used to lobby for abortion." Section 535 says, in part, that "none of the funds made available * * * may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions." It seems to me that those statements are pretty clear.

But the issue before us now is not a general concern about abortion: It relates specifically to the U.S. contribution to U.N. Population Fund [UNFPA]. The UNFPA provides services in China, and China, as we all know, has a policy of coerced abortion in place. It is a dreadful policy. I renounce it and reject it. And so does the bill before us. Look at what the bill says: "none of the funds made available * * * may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions." And if that isn't enough, the bill goes on to say that our contribution to the UNFPA shall be kept in a separate account and that "none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China."

Now, Mr. President, I don't know how much clearer we can make it. This bill does not support, assist, involve us in, or associate us with China's policy. All it does is earmark some desperately needed money for an organization which does a great deal of good throughout the world. And in that context, let me point to one last piece of language in the bill. The bill tells us that "in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or indirectly or through referral to, or information about access to, a broad range of family planning methods and services."

Again, Mr. President, this is not a proabortion bill.

We are, Mr. President, in a new world. But we are debating old myths. For those who are concerned about human rights and respect for life in China, I would suggest that they read the bill, end this debate—and perhaps debate whether or not we ought to extend most-favored-nation status to China in light of the "respect" they demonstrated for human life when they slaughtered students a year ago. That would be a meaningful debate. This isn't.

Mr. JEFFORDS. Mr. President, one of the most important issues debated here tonight is funding for family planning programs. I rise in support of the committee amendment on UNFPA.

Mr. President, a lot of my energy during this Congress has been spent on environmental issues. Pollution, global warming, devastation of the rain forests, holes in the ozone layer over Antarctica concern us all. If we do not take care of the global environment, we will soon find it impossible to sustain our way of life and to bequeath a safe planet to our grandchildren.

Population is perhaps the critical element in environmental quality. No ecosystem can survive if it is forced to support a too rapidly growing population. If we are to conserve the increasingly scarce resources of this planet, we must make strong efforts to control population growth and slow the explosion that is expected to add 93 million people to the globe this year alone.

The United Nations Population Fund [UNFPA] is the largest multilateral family planning organization in the world. With family planning programs operating in 138 countries, UNFPA is providing more people with the information and assistance they need to control the size of their own families than any other single organization. And yet, the United States, one of its founding members over 20 years ago and largest donor until 1985, stands strangely alone in refusing to fund the organization.

I fully understand the concerns that were raised several years ago over unacceptable practices in the Chinese family planning program. It is appropriate that both the United States and the UNFPA condemned those practices and ended all funding for the Chinese program. In response to continued skepticism over the Chinese program, the authors of the committee language before us have stipulated that no funding go to the People's Republic of China. This should address the concerns of my colleagues.

Mr. President, like so many of the issues we have discussed here today, we cannot wait another year before resuming our funding of the UNFPA. It is critical that we act now to empower people to manage their size of their own families. For the sake of our planet, we must realize that it has limits, and that we are fast bumping up against these limits. One of the most important ways we can buy ourselves some extra time to solve the many critical environmental problems is to resume our leadership in international family planning programs. I urge my colleagues to support the committee amendment to provide $15 million to UNFPA.

Mr. LEVIN. Mr. President, I will vote for cloture in support of the United Nations Population Fund [UNFPA] language in the foreign operations appropriations bill before the Senate.

The United States was instrumental in creating UNFPA in 1969, and urged other nations to contribute to it. For years the United States was its largest donor. But 5 years ago, the United States abandoned UNFPA, the largest multilateral family planning program in the world. None of our major allies—not Britain, Canada, Japan, or Germany—supports the misguided United States boycott.

UNFPA's family planning programs are entirely voluntary and its charter prohibits it from performing or supporting abortion. Nevertheless, UNFPA's program in China is usually cited as the reason for the United States withdrawal of support for UNFPA. I condemn, as strongly as anyone, coercive family planning measures. But this bill does not provide any support to China or for coercive activities in any country.

This bill would renew support for UNFPA, but require that it be kept in a separate account and that no United States funds be used for any purpose in China. If any United States funds leak to China, the bill requires that the entire United States contribution to UNFPA be returned. Furthermore, if UNFPA funding for China from other sources increases, a proportionate share of the United States contribution would be returned.

By withholding funding for UNFPA, the United States denies poor women in over 120 developing countries access to family planning and the ability to exercise their fundamental right to determine the size and spacing of their families. Voluntary family planning not only reduces the number of abortions, but also reduces infant mortality and improves the health of women and their children.

Rapid population growth is outpacing economic growth in many developing countries, hurting people and the environment. To turn our back on this development is both irresponsible and shortsighted. I urge my colleagues to join me in supporting the UNFPA language developed by Senators LEAHY and MIKULSKI.

VOTE ON MOTION TO INVOKE CLOTURE

The PRESIDING OFFICER. All time has expired. Under the previous order, the live quorum is waived. The question is, is it the sense of the Senate that debate on the committee amendment on page 10, line 20, of H.R. 5114 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCLURE (after having voted in the negative). Mr. President, on this vote, I have a live pair with the distinguished senior Senator from Oregon [Mr. HATFIELD]. If he were present, he would vote aye. I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. DOLE. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], 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 result was announced—yeas 51, nays 38, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—51

| | | |
|---|---|---|
| Adams | Gore | Moynihan |
| Akaka | Graham | Nunn |
| Baucus | Harkin | Packwood |
| Bentsen | Heinz | Pell |
| Bingaman | Hollings | Pryor |
| Bradley | Inouye | Riegle |
| Bryan | Jeffords | Robb |
| Burdick | Kennedy | Rockefeller |
| Byrd | Kerrey | Rudman |
| Chafee | Kerry | Sanford |
| Cohen | Kohl | Sarbanes |
| Conrad | Lautenberg | Sasser |
| Cranston | Leahy | Shelby |
| Daschle | Levin | Simon |
| DeConcini | Lieberman | Specter |
| Dodd | Mikulski | Stevens |
| Glenn | Mitchell | Wirth |

NAYS—38

| | | |
|---|---|---|
| Armstrong | Durenberger | Lugar |
| Biden | Exon | Mack |
| Bond | Ford | McConnell |
| Boren | Gorton | Murkowski |
| Boschwitz | Gramm | Nickles |
| Breaux | Grassley | Pressler |
| Burns | Hatch | Reid |
| Coats | Heflin | Roth |
| Cochran | Helms | Symms |
| D'Amato | Humphrey | Thurmond |
| Danforth | Johnston | Wallop |
| Dixon | Kasten | Warner |
| Dole | Lott | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClure

NOT VOTING—10

| | | |
|---|---|---|
| Bumpers | Hatfield | Simpson |
| Domenici | Kassebaum | Wilson |
| Fowler | McCain | |
| Garn | Metzenbaum | |

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 38. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to invoke cloture is not agreed to. Under the previous order, the committee amendment on page 10, line 20, is not agreed to.

Mr. HUMPHREY. Mr. President, parliamentary inquiry.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Did the Senator have a parliamentary inquiry? I apologize. I yield to the Senator.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote on the amendment.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending question is on agreeing to the committee amendment on page 2, line No. 12.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, we have lined up a number of amendments, and I am about to suggest a unanimous-consent agreement which would permit us to consider them and stack at least some of the votes for the maximum convenience of Senators.

I will shortly offer an amendment regarding Cambodia with respect to which I will ask for a 30-minute time agreement, the time to be equally divided. Senator KERREY of Nebraska has indicated he has an amendment regarding Cambodia on which he is agreeable to a 20-minute time limit.

I am going to ask that those amendments be offered, debated, and then votes on both occur, unless someone would prefer them one at a time, which it will take a little more time. I am trying to do this in a way that will accommodate Senators.

Then Senator DIXON has an amendment regarding the Korean FSX on which he is agreeable to a 1-hour time limit, if it is agreeable to the managers. And then Senators HARKIN and DIXON have an amendment regarding Egyptian debt, a 1-hour time limit equally divided.

Mr. DOLE. Not if we are going to do this tonight.

Mr. MITCHELL. Is there any objection to proceeding to the first three amendments this evening?

Mr. KASTEN. If the Senator will yield, the administration has told us just a moment ago that they are strongly opposed to the Cambodian amendment that was listed. At least as

of this moment, because we are still on the phone back and forth with them, I cannot agree to a time agreement with regard to the Cambodian amendment. But if the Senator wants to start it, there is nothing we can do about that.

Mr. MITCHELL. That is fine. I was merely attempting to convenience as many Senators as possible. If the distinguished manager objects to a time agreement, then why not proceed with the amendment and perhaps in a short time we can develop a way to get agreements on time that will enable us to proceed in an expeditious fashion that is agreeable to the maximum number of Senators.

Mr. President, in light of that, I will not propound a unanimous-consent request.

AMENDMENT NO. 2966 RELATING TO SECTION 562

(Purpose: To make available a limited amount of development and humanitarian assistance to Cambodians and to provide for terminating assistance to any Cambodian organization cooperating with the Khmer Rouge)

Mr. MITCHELL. Mr. President, for myself, Senator BOREN, Senator DANFORTH, and Senator KERREY of Nebraska, I send an amendment to the desk 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 Maine, [Mr. MITCHELL], for himself, Mr. BOREN, Mr. DANFORTH, Mr. KERREY, Mr. HATFIELD, and Mr. SIMON, proposes an amendment numbered 2966.

Mr. MITCHELL. 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:

In the language proposed to be inserted by the amendment, strike out "activities and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. . (a) ASSISTANCE.—(1) Not to exceed $20,000,000 of the funds appropriated by this act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians including the Cambodian noncommunist resistance along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the noncommunist resistance.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) REPORTING REQUIREMENT.—(1) The Administrator of the Agency for International Development shall conduct within 120 days of enactment of this act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "humanitarian assistance for cambodian children".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "humanitarian assistance for cambodian children" shall also be available to civilian victims of war.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

Mr. DOLE. Mr. President, will the majority leader yield for inquiry of the schedule.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader for inquiry.

Mr. DOLE. Mr. President, a number of my colleagues are wondering about how late we may be here this evening, whether or not there will be a session tomorrow or Sunday.

Mr. MITCHELL. Mr. President, first I apologize to all Senators for the inconvenience for having to be here at this hour on Friday evening. I remind my colleagues that we spent 3 hours this morning in a period of total inaction before we could get consent to proceed to the first of the two appropriations bills that we hoped to consider today. Had we not done so, we would hopefully have been much further along on this bill.

There are a number of amendments to be offered. It had been my hope to complete action on this bill this evening. However, I have been advised that for unavoidable reasons, involving family matters, a Senator who is involved in one of the crucial amendments cannot be here, so I was going to suggest that we proceed to dispose of these four amendments and, as we did that, to attempt to reach an agreement with respect to the remainder of the amendments with a time certain to finish the bill on Monday.

I have no desire to have the Senate in tomorrow; I know how inconvenient that is to all Senators, but I think it is also the desire of several dozen Senators who have spoken to me about it that this session be completed as soon as possible, and hopefully by next weekend.

Obviously, we cannot do both—not do these bills now and also get out next weekend. So if we can get an agreement that would identify and limit the amendments and enable us to complete action on this bill at a time certain on Monday and still be able to proceed to the defense appropriations bill at some point on Monday, I think that would be the best way to proceed.

We do not yet have such an agreement, and we are trying to get that now. In the meantime, I suggest that we proceed with this amendment. Hopefully at some point the distinguished manager on the minority side can get agreement to permit us to go to a vote on it. I am prepared to vote within 30 minutes or any time thereafter.

Mr. DOLE. Will the majority leader yield? I know that a number of my colleagues have already left because of commitments, and that happens. I hope the rumor from the House side that we were going to be here until the 27th does not become a self-fulfilling rumor. People say the 27th and pretty soon we are here to the 27th, and it may be later than that. So I think all of my colleagues on this side of the aisle would wish very much that if in fact we can expedite the business, we should, giving it proper consideration, obviously, in hopes that we can complete our work by next Friday, Saturday, or next Sunday.

I think as the majority leader has indicated, at 10 after 8, knowing that we may not be in tomorrow, it is hard to determine. There are going to be a lot of people here tomorrow; many Members of this body will be here tomorrow. Members of the Budget Committee will be here tomorrow working on the budget trying to get that ready, and maybe members of other committees trying to finish their reconcilia-

tion instructions working with the Budget Committee.

So I guess it would be fair to say, even though we are not in session tomorrow, I imagine the majority of Senators will be working in Washington tomorrow because we need to do that if we are going to complete our work.

Mr. MITCHELL. Mr. President, first, as the distinguished Republican leader knows, at all the leadership meetings that we have attended where the subject of adjournment sine die comes up, he and I are in the forefront of those pressing for earlier dates.

I agree completely that even rumors about dates then do become self-fulfilling prophecies. They establish a state of mind that I think is most unfortunate, and that is one reason why I am trying very hard not to do that. I sincerely believe that we can complete our business by midnight October 19, and that is my objective.

I will do everything I can to enable us to meet that objective. If it proves to be not possible, I, of course, will have to take the situation into account at that time.

Second, I might say to the distinguished Republican leader, that it is not a scientific sample, but based upon the conversations I have had with Senators on both sides of the aisle this evening, it is about 50-50; those who would like to stay and finish tonight, and those who would like to finish tomorrow. So it is impossible to accommodate every Senator, as I said.

I think the best way to proceed, which would be best for the largest number of Senators, would be to get an agreement tonight that identified the amendments with a time certain for completing action on this bill on Monday, and that we stay in until we do that this evening which I hope will be in a relatively short period of time. And then we will know we have the bill finished, and we can go to the Defense appropriations bill.

If we cannot do that, of course, we have no alternative but to simply stay in, and plow ahead in a manner that, I think, will be unfortunate, but necessary.

Mr. DOLE. But is there still some slight idea that we might be in tomorrow?

Mr. MITCHELL. Yes, there is. If it is impossible to get identified a list of amendments and some time certain, then we may have no alternative but to stay tonight and tomorrow to complete action on the bill.

Mr. DOLE. I thank the majority leader.

Mr. NICKLES. Mr. President, would there be any possibility of stacking the four votes on the amendments which were described for early Monday morning?

Mr. MITCHELL. There will be, if they are part of a larger agreement to do that with respect to all of the amendments on the bill.

Mr. NICKLES. I thank the majority leader.

Mr. MITCHELL. That is what we are trying to do. My intention was to have votes on as many of these as possible this evening, and while we were doing that, to try to get an agreement limiting the rest of the amendments.

I have no objection to doing that with respect to these, if we can get the larger agreement.

Mr. President, parliamentary inquiry. Is my amendment now the pending business?

The PRESIDING OFFICER. The amendment has been considered as read and is the pending business.

Mr. MITCHELL. Mr. President, along with the chairman of the Intelligence Committee, DAVID BOREN, the ranking member of the Commerce Committee, JOHN DANFORTH, and Senator BOB KERREY, I rise to offer this amendment to provide assistance to Cambodians, including the non-Communist resistance.

This amendment is designed to make United States assistance consistent with the administration's diplomatic strategy in Cambodia. It broadens the old United States program of nonlethal military assistance to the non-Communist forces to a program that would allow the President to provide humanitarian and development assistance to the non-Communists and to other Cambodians in need. It would pave the way for an elections process that could determine the future of Cambodia.

The administration's efforts, shaped by changes in policy that my colleagues and I had long urged, have helped to transform the situation in Cambodia during the past few months. There is now hope for an end to the debilitating war between the Hun Sen regime, seated in Phnom Penh, and the allied forces of the Khmer Rouge and the non-Communist resistance.

I have long believed that American policy toward Cambodia has been misguided and has greatly increased the likelihood of the return of the Khmer Rouge to power.

I am sadly unconvinced that the settlement guidelines adopted by the five permanent members of the U.N. Security Council contain adequate safeguards against the return of the Khmer Rouge.

Many stress their belief in the need to include the Khmer Rouge, to give them a stake in the system. But I do not trust the Khmer Rouge. I do not believe they will abide by any terms other than their own terms of genocide and bloodshed. I have grave concerns about a diplomatic settlement that relies on the good faith of the murderous Khmer Rouge.

I am concerned that the administration has failed to fully consider the glaring loopholes and the weaknesses inherent in the plan it has promoted so successfully. I urge the administration to seriously and critically examine the plan's most alarming defects, those in the provisions for disarmament. I hope that the administration will devote every effort to making certain that this agreement, when finalized at the Paris Conference, will be Khmer Rouge-proof.

Despite my personal reservations about the current outlines of the plan, I believe the United States must now do everything in its power to make this diplomatic process work. We owe this to the people of Cambodia who deserve the opportunity to determine their own futures, free of coercion and violence.

That goal is precisely what this amendment would promote.

This amendment would provide $20 million in humanitarian and development assistance to Cambodians throughout the country. It would allow the administration to continue providing humanitarian support to the non-Communists and to provide assistance to other Cambodians in need.

Under the amendment, the United States Agency for International Development would conduct a needs assessment inside Cambodia and assistance would be spent, to the maximum extent possible, in accordance with the priority of needs identified by AID.

This is necessary given the serious documented problems with the past U.S. aid program to the non-Communist resistance [NCR]. From 1986 to 1990, the United States provided about $20 million in nonlethal assistance to the NCR.

The United States also provides millions of dollars—some 200 tons between 1987-89—of excess DOD supplies to the non-Communists through a separate Defense Department program. The General Accounting Office reports that AID did not design the assistance program to have specific activities or projects planned and implemented, with goals, objectives and benchmarks being clearly defined. There clearly is a need to establish objectives for our aid program to the NCR and other Cambodians.

There also is an urgent need to improve accountability for U.S. funds. The GAO, in its recent report to Congress, noted that "AID's responsibility for assuring accountability ends when the assistance is turned over to the NCR." The amendment attempts to prompt greater accountability for the U.S. taxpayers' money by requiring the President to report on the use of funds provided to Cambodians. We must address the GAO's conclusion that the actual end-use of U.S. assistance to the NCR "still cannot be monitored or verified."

The GAO's startling conclusion raises grave questions about compliance with current U.S. law which bars any United States aid from having the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge to conduct military or paramilitary operations in Cambodia.

The GAO was told by officers of the Thai Government and Prince Sihanouk's party that battle targets were communicated to the Khmer Rouge. GAO concluded that "to the extent that U.S. nonlethal assistance has contributed to the NCR's performance on the battlefield, it would appear that such communications and contact between the NCR and the Khmer Rouge forces may have had the effect of indirectly augmenting the efforts of the Khmer Rouge."

As many are aware, the press has been much less guarded in its conclusions, reporting many examples of military cooperation between elements of the NCR and the Khmer Rouge.

Given new reports that the Khmer Rouge are poised to begin an offensive with tanks provided by China, it is essential that this restriction on the use of United States funds be maintained. Yet this year, the House voted to weaken the prohibition on cooperation between the NCR and the Khmer Rouge.

This amendment therefore reiterates the existing ban and, to prevent creative lawyerly interpretation of that law, adds an even clearer prohibition against using U.S. money to help the Khmer Rouge. The amendment requires the President to terminate assistance to any Cambodian organization that is cooperating, tactically or strategically, with the Khmer Rouge in their military operations. The amendment also requires a report on the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the non-Communist resistance.

As long as no such cooperation occurred, the President would be able to provide humanitarian and development assistance to the non-Communist resistance.

In the past, the U.S. nonlethal military aid program was, as GAO concluded from State Department documents, designed to complement military assistance to the NCR. The House-passed program of aid to the resistance reflected this military orientation. Now that agreement by the Perm Five has established a diplomatic process, the U.S. aid program should complement this process that the administration has set in motion. It can do so by providing humanitarian and development assistance to the NCR and other Cambodians as they move toward an elections process.

This amendment would not cut off or undermine the non-Communist resistance, nor would it impede any aspect of the international settlement. It would allow the United States to continue providing assistance to meet the legitimate and peaceful needs of the factions the administration has chosen to back, so that they can continue to provide a non-Communist alternative in free elections.

This, after all, was Secretary of State James Baker's main request to Congress in his letter of July 1990.

And this amendment would almost triple the amount of aid available in the House bill.

The amendment strengthens the United States role in Cambodia and supports the administration's diplomatic initiatives.

This aid program will demonstrate the United States' commitment to a political process.

It will show that the United States seeks not to further war, but to build peace. It will enable the non-Communists to participate fully in the political arena. And it will help convince Cambodians that the United States has not forgotten them and will help them emerge from the darkness and devastation of war toward a peaceful future of freedom.

I urge my colleagues to support this amendment.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I am pleased to cosponsor this amendment, and I support it with all of the strength I have.

Mr. President, this is the killing fields. Cambodia is the killing fields. Cambodia is the place where, in 1975, Pol Pot came to power, the Khmer Rouge. And Pol Pot's strange, deviant brand of communism included a systematic effort to impose an agrarian system on his country, a system which included, among other things, the evacuation of the city of Phnom Penh, shoving people out of the city. It would be as though a government came to power in the United States, went into the city of Washington, DC, and shoved people out of their homes, out of their buildings, and pushed them out into the countryside.

People who had an education, or who looked as though they might be educated, were murdered. People who wore eyeglasses were murdered. One to two million people in a country of about 7 million people were killed by the Khmer Rouge. And then, blessedly, the Khmer Rouge were evicted. They were not evicted from control of the country by our friends. They were evicted by the Vietnamese, and the Vietnamese and the government that they installed have been more or less in control of that beleaguered country ever since.

The policy of our Government has been to oppose the established government in Cambodia because of the connection with Vietnam. I think that that is mistaken policy. My reason for believing it is a mistaken policy is that all things are relative to something, and however we might be in disagreement with the Government of Cambodia, or the Vietnamese, anything is better than the Khmer Rouge; anything is better than mass murder. And make no mistake about it, the Khmer Rouge that came into power in 1975 is still around. The Khmer Rouge that came into power in 1975 is still an active organization, with Pol Pot in control, and the same small group of people around Pol Pot still controling the Khmer Rouge.

And their methods, if anything, have become more sophisticated in their evil. Their basic method now is to plant land mines in rice paddies, so that people who plant rice or harvest rice are blown up, not soldiers are blown up, but people, including women, children, old people, are blown up by land mines. Cambodia today has more children with missing limbs than any other country in the world.

Now according to press reports, the Khmer Rouge have been armed by their Chinese allies with tanks, and the Chinese tanks will be used by the Khmer Rouge to attack villages. Our Government's position has been to support really minor political organization of no significance from the standpoint of real power, because we say that this is the non-Communist resistance; but these people have allied themselves with the Khmer Rouge against the Government.

The real contest in Cambodia is between the Khmer Rouge and the Government. We would like to have Mr. Son Sann in control of the country. It is not going to be. There is no possibility that that is going to be. So in furtherance of our policy we have cut off all kinds of economic contact with Cambodia, we have isolated the country. We have imposed sanctions on the country and it is one of the poorest countries in the world, all, I would insist, to the furtherance of the cause of Pol Pot.

This amendment says that we are going to provide $20 million of humanitarian and development assistance. It says that we are going to provide that assistance to the people of Cambodia. It says that we are going to stop trying to play games with the Khmer Rouge. It says that those organizations that chose to affiliate themselves with the Khmer Rouge are not going to get any of this aid. It is an amendment that is designed to rescue the people of this God-forsaken country and to turn our policy away from our assistance, albeit indirect assistance, for the most bloodthirsty political organization since

Nazi Germany, and that is the Khmer Rouge.

Mr. President, I am sorry if the representation of the Senator from Wisconsin is correct and that the administration is opposed to this. I have spoken on several occasions with Secretary Baker. In fact, even before he was sworn in, I went to the State Department and spoke to him on this subject. I do not believe that we have any place to go up in Cambodia, and I think that anything that furthers the cause of Pol Pot and his gang is reprehensible.

This is not a case of Communist government being opposed by freedom fighters. This is a case of a Communist government all right—I am not sure that any of us are exactly quaking in fear to the appellation any more—but it is a question of a Communist government being opposed by a Communist agrarian Chinese-backed radical gang of goons.

It is high time that we change our policy and it is high time that we say anything but the Khmer Rouge, anything but the Khmer Rouge. And this vote gives us an opportunity to say just that.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank and compliment my colleague from Missouri for the comments he just made. I had many discussions with my colleague about this important policy question, about what is going on in Cambodia. No Member of this body has spent more time and showed more concern for the plight of the Cambodian people than the Senator from Missouri. He has awakened all of us to what is going on in that country. He is the most knowledgeable Member of this body about circumstances there.

I compliment him for his interest, I compliment him for the courage that he has shown, and I compliment him for the tenacity he has shown in trying to move our mistaken policy in this part of the world.

I also compliment the distinguished majority leader, the Senator from Maine, for offering this amendment and, like the Senator from Missouri, I am proud to join as a cosponsor with the distinguished majority leader.

This amendment would do just exactly what the Senator from Maine and the Senator from Missouri have said it will do. It will give us an opportunity to support the agreements that have been entered into between the permanent five, the United Nations, to move toward a peaceful and hopefully democratic solution to the situation in Cambodia.

By using the language that allows the administration flexibility in deciding how the nonlethal humanitarian assistance will be used, it gives us, for the first time, some leverage in trying to move other parties, including the current government in Cambodia, toward support of our own objectives. It also tightens up clearly the prohibition on any funds being provided that could directly or indirectly be used to benefit the Khmer Rouge. This is an important prohibition. It is important that we tighten this restriction for the reasons that the Senator from Missouri has just outlined.

None of us want to be in a position of having provided funds which would directly or indirectly enhance any possibility that the Khmer Rouge would once again come to power with its reign of terror in that unfortunate and war torn country.

So, Mr. President, it is important that we tighten up those restrictions. Like the Senator from Maine, I am convinced that there is a strong likelihood that in the past some of the funds from the United States might have been used directly or indirectly to benefit the Khmer Rouge. It is time that we have restrictions that are enforceable and it is time we put in place an adequate mechanism to make sure that those restrictions are enforced.

It is also healthy for us to provide this aid in this forum. I have long believed that this is a policy question that should not be discussed behind closed doors where the majority of the Members of the U.S. Senate could not have an opportunity to participate in those discussions and where indeed the American people could not be broadly engaged in the debate about the appropriate policy which the United States should follow in Cambodia.

So this is a step in the right direction. It in no way turns our backs on the non-Communist resistance. It provides continued humanitarian nonlethal support for them. It opens the door to the possibility that we might provide support to a broader spectrum of Cambodian society in need.

It does not require us to make a decision about recognizing the current government or force us in that direction, but it gives the administration the flexibility to move toward an improved relationship if the circumstances merit it and if the current government in Cambodia begins to move in a direction that would further our own policy aims.

It requires that we put on the ground an AID team to evaluate the needs, both current and long-range needs of that country in the event a peaceful solution can be found. It is important that we have that kind of information and that kind of assessment, moving forward at the current time.

So, Mr. President, this is a timely amendment. It gives us an opportunity to reverse some of the policy mistakes of the past. It gives us an opportunity to involve the American people in an open public discussion of this matter. We should be having an open public discussion of it. And, it puts in place a workable mechanism, legal language which is enforceable, that will make certain that we do not have the possibility that our funds could be used to provide benefit to the Khmer Rouge.

I commend the majority leader. I am proud to join with him in sponsoring this amendment. It is my hope that the administration will decide to lend its enthusiastic support for this amendment as well. It does not tie the hands of the administration. It gives the administration flexibility. It gives the administration an opportunity to move toward a policy which will work, and surely this administration would not want to leave on the books a law related to the flow of funds or assistance to the Khmer Rouge which would open the door in any way to any possibility that American funds could be used to help the people running that particular organization and that particular faction. I do not think any of us could look the American people in the eye, could look at American taxpayers and say to them that we wanted to see a penny of their money go to support a murderous group like the Khmer Rouge, and we have a responsibility to close the door to that possibility.

So I am proud to join in cosponsoring this amendment, and I am proud to state as a Senator, and also as chairman of the Committee on Intelligence, that this debate is occurring where it should be debated, in the open, on the floor of the U.S. Sentate, a matter of public policy and not a matter that should be discussed behind closed doors where the rest of the Senate and the American people are foreclosed from the process.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, first I ask unanimous consent to be added as a cosponsor.

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

Mr. SIMON. Mr. President, I concur completely with my colleague from Oklahoma, Senator BOREN, and join in commending Senator DANFORTH for his leadership and for his forthright statement that he just made here and for what he has been doing and to commend Senator MITCHELL for introducing this.

Talking about the Senator from Maine, I also commend a former Senator from Maine, Ed Muskie, our former Secretary of State, who has been superb in providing insights into this question.

Let me also commend the junior Senator from Nebraska [Mr. KERREY]. I had the privilege of hearing him testify before the Senate Foreign Relations Committee on this, and he did a

superb job in spelling out where we are and what we ought to be doing.

The reality is that our policy has been massively flawed. I think we have reacted because the Government in Cambodia has had ties, very close ties to the Government of Vietnam and in an emotional response to that, we have backed ourselves into doing things that help the Khmer Rouge, the most murderous government that this Earth has seen since the Nazis were in power in Germany.

This amendment should be adopted, should be adopted overwhelmingly, so that there is a signal both to the House and to the administration that we have to move away from this flawed policy.

I am pleased to join as a cosponsor.

Mr. KERREY. Mr. President, I rise as well as a cosponsor of this amendment in support of it and concur with the remarks that have been made applauding the statements by the Senator from Missouri [Mr. DANFORTH], the Senator from Oklahoma [Mr. BOREN], and the distinguished majority leader.

Mr. President, on the 20th of July last year, 1989, at not too far removed from this particular hour, we debated a Cambodian amendment that was very controversial, that pitted the administration against many Members of Congress and was adopted that evening. Much has happened, and I think it is very important to consider all the things that have happened in the world since the 20th of July because it bears significantly upon this particular amendment and the importance of this particular amendment.

Regrettably, it appears that we may once again be arguing against the administration. I say regrettably because of all the things that have been said thus far the one that I think is perhaps the most important is that the American people need to openly debate our policy toward Cambodia; openly debate it, Mr. President.

Since June 1975 until somewhere early in 1980, we in the United States of America essentially drew the blinds on Southeast Asia. When we had our last helicopter lift from the embassy in Saigon, we turned our backs on that region of the world and said, "Well, the war did not go quite the way we wanted and therefore we going to try to forget this whole matter."

Unfortunately, Mr. President, that permitted Pol Pot to rise in power. It enabled him to use the military power and the absolute political power that he had to do all the things that Senator DANFORTH has described earlier. And that has caused the death in the neighborhood of 2 million Cambodian people during the period of time that he was in control of that country.

It is important that the Members of the Senate understand that what this amendment simply attempts to do is bring it all out in the open. I understand that there are concerns. There were concerns expressed last year that this is going to tip American policy toward a Communist government run by Hun Sen, the puppets, as they were described last year, of Vietnam and that we should not tip our policy toward this Communist government; that what we needed to do was support the non-Communist insurgency on the border of Cambodia and Thailand; that this insurgency would put pressure upon the government and that would produce a positive outcome.

I understand that there is still some concern, Mr. President, that we not tip our policy toward Hun Sen. I must say, with all due respect to that argument, I think the administration's own success the past 6 months in regards to our policy toward Cambodia demonstrates we should not be overly concerned about that and if we are, we are liable to in fact have the wrong policy put in place.

Much has happened since July 1989 when we debated this. The support that the Government of Cambodia had from the Soviet Union, from the East Bloc, has all but disappeared. They continue to get some support from the Soviet Union but not very much, and none whatsoever from the East Bloc. They are increasingly isolated. And that has caused, along with American pressure, that government to appear now to be prepared to agree to an interim national council.

There is going to be a meeting sometime in December in Paris to see if all the parties cannot sign the documents and agree to the creation of this new council. And what this council is going to set in motion is a course toward democracy in Cambodia.

What I urge my colleagues to picture is that we have no presence at all in Cambodia. None. We are guessing about what is going on over there. They have never had a democracy in Cambodia. Never. Military power has always be the most important power. The current government has absolute military power just like the government of Pol Pot did. The professional class in Cambodia is gone. It was wiped out by Pol Pot. It was wiped out by Pol Pot and further decimated by the arrival of the Vietnamese in 1979.

Mr. President, this is a nation that is going to struggle to create a democracy. This is a nation that will struggle to create the structures of free enterprise capitalism as well, but this is a nation that has a capacity to do it.

Part of what President Bush is describing in his new world order is a new response on the part of the United States to help these kinds of democracies, to help these kinds of people as they move toward democracy. And it will not work if we continue our isolation from the people of Cambodia.

What this aid gives us a chance to do is go directly to the people of Cambodia. It cuts off and makes sure none of this money goes to the Khmer Rouge. It still permits money to go to the non-Communist resistance, nonlethal humanitarian resistance. It does not tie our policy toward one government or another. It enables in fact the administration to continue down the course toward getting agreement for the creation of a supreme national council.

Mr. President, this particular amendment reinforces what the administration is trying to do. And this particular amendment, as well, gives the American people the opportunity to participate in the development of a good and decent policy toward the nation of Cambodia and the people of Cambodia.

Mr. President, I see no one else wanting to speak at the moment, 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. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KERREY. Mr. President, I ask unanimous consent that Senator HATFIELD be added as a cosponsor to the pending amendment.

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

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

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

Mr. KERREY. Mr. President, I ask unanimous consent Senator DODD of Connecticut be added as a cosponsor of this amendment.

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

Mr. CRANSTON. Mr. President, I wish to speak in support of this very commendable amendment introduced by Senator MITCHELL and Senator DANFORTH on "assistance for Cambodian democracy."

This amendment is crafted to provide continued support for the two factions of the non-Communist resistance as long as they do not provide military support to the Khmer Rouge while beginning to build a broader base for the return of democracy in Cambodia.

For too long our policy has been narrowly constructed at supporting only the two non-Communist resistance

factions in a political coalition with the Khmer Rouge. I have been deeply disturbed by credible reports that at least one of these factions—the army led by Prince Sihanouk—has cooperated extensively with the Khmer Rouge in attacking the Phnom Penh government of Hun Sen.

The General Accounting Office in public testimony on September 19, 1990, before the Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs which I chair, concluded that "accountability systems do not exist" to provide assurances that U.S. assistance has not been benefiting the Khmer Rouge.

This amendment will start to make our aid program to Cambodian forces more transparent in terms of accountability.

Second, it will start to refocus our program on what should have always been our goal: to rebuild democractic forces in Cambodia.

Another damaging conclusion of the GAO's investigation was that the United States has provided about $20 million in overt assistance to the non-Communist resistance since fiscal year 1986 without designing specific activities or projects planned and implemented, with goals, objectives, and benchmarks being clearly identified.

In effect, $20 million of American money has gone into a Cambodian sink hole.

By requiring the United States Agency for International Development to conduct an assessment of Cambodian needs, we can begin to put some rationality back into our aid program. By providing support for a National Endowment for Democracy program we can begin funding the type of programs needed in advance of elections in Cambodia.

This amendment does not end aid to the non-Communist resistance. It expands it while beginning a broader program to support democratic forces inside Cambodia.

I urge my colleagues to support this amendment and I ask that I be included as an original cosponsor.

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

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

AMENDMENT NO. 2966 AS MODIFIED

Mr. MITCHELL. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

The amendment (No. 2966), as modified, is as follows:

In the language proposed to be inserted by the amendment, strike out "activities" and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. . (a) ASSISTANCE.—Not to exceed 20,000,000 of the funds appropriated by this Act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians, including the Cambodian non-Communist resistance, along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of his Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the noncommunist resistance.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) REPORTING REQUIREMENT.—The Administrator of the Agency for International Development shall conduct within 180 days of enactment of this Act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN" shall also be available to civilian victims of war.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

Mr. MITCHELL. Mr. President, this amendment modifies the provision of the amendment which calls for an assessment to be made within 120 days and changes that date to 180 days to accommodate the administration as well as Senators who have expressed concern about the previous time limitation.

With that amendment, it is my belief that the debate is at or near a conclusion. I hope we can proceed to adopt the amendment.

Mr. KASTEN. Mr. President, I would like to address a question to the distinguished majority leader. Does the Mitchell amendment give the Director of AID discretion to select the recipients of the U.S. humanitarian and also development assistance?

Mr. MITCHELL. Yes, it does.

Mr. KASTEN. I thank the leader.

Let me say, Mr. President and my colleagues, the administration is opposed to this amendment, but I think we have to go forward. With the change that has been made, I believe they will be less opposed to this amendment. It would be my hope it would not be necessary to have the yeas and nays. We could simply determine the outcome on a voice vote.

My understanding is that the yeas and nays have not yet been ordered; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KASTEN. I thank the Chair.

Mr. MITCHELL. Mr. President, that is agreeable to me.

Mr. KENNEDY. Mr. President, today the United States Senate has the opportunity to take two important steps toward peace and stability in Cambodia.

I commend Senator MITCHELL for his amendment to increase humanitarian assistance to Cambodia and authorize the Agency for International Development to help address humanitarian needs in that troubled country.

I also commend Senator KERREY for his amendment to lift the trade embargo against Cambodia.

I strongly support both of these long overdue steps toward the normalization of United States relations with Cambodia.

Our diplomatic and economic isolation of Cambodia is a relic of the cold war and the Vietnam war era that no longer serves our interest. Yet the ad-

ministration refuses to deal with the Hun Sen government of Cambodia, because it is a Communist government supported by Vietnam.

But the cold war is history. The real threat to peace in Cambodia is not an external Communist threat from Vietnam but the internal threat from the genocidal Khmer Rouge.

Peaceful economic growth is the most effective long-term shield against the Khmer Rouge.

The United States can help Cambodia achieve that growth and prevent a takeover by the Khmer Rouge by normalizing relations with Phnom Penh, lifting the trade embargo, and terminating United States military assistance to non-Communist resistance forces which are working with the Khmer Rouge to overthrow the Hun Sen government.

Small businessmen in Phnom Penh have long since rejected Pol Pot's Maoist principles in favor of the advantages of a free market economy—particularly since they are allowed to own and transfer private property and operate their businesses with virtually no restrictions.

Aside from a Japanese sawmill and a Singapore hotel, however, there is almost no foreign investment in Cambodia, because of United States pressure on its trading partners.

The continued isolation of Cambodia harshly and unfairly penalizes the Cambodian people, and undermines our efforts to promote a diplomatic solution and support self-determination.

It is counterproductive for the United States to refuse diplomatic relations with Phnom Penh. The administration needs a better understanding of the political and military situation on the ground as well as a first hand knowledge of Hun Sen's objectives in the peace process.

The administration recognizes the value of open channels of communication in the Middle East. Why should we maintain an embassy in Baghdad, but not in Phnom Penh?

Moreover, our country's support of rebel groups seeking to overthrow the Cambodian Government by violence is unjustifiable—particularly since that government has agreed to allow the United Nations to administer democratic elections. It is all the more reprehensible to support these groups in light of the fact that their military victory would result in Pol Pot's return to power—a fact that the administration acknowledges.

The concept of the non-Communist resistance as an autonomous group fighting a civil war independently of the Khmer Rouge is a fiction. All three rebel groups are funded by China. All three share the common goal of overthrowing the Hun Sen government—which is why they have shared the United Nations seat for so many years. Obviously, they support and benefit from each others' military offensives.

The administration recently recognized the Khmer Rouge's dominance over the non-Communist resistance and withdrew its support for the coalition in the United Nations. It is inconsistent to maintain that the Khmer Rouge dominates the diplomatic field but not the battlefield—or any future government other than the current one.

Congress should immediately withdraw its military support for all the members of this coalition. To prevent the non-Communist resistance from helping the Khmer Rouge return to power, the Congress should condition the continuation of humanitarian assistance to these groups upon their agreement to stop fighting.

During Pol Pot's genocidal reign of terror between 1975 and 1979, nearly a third of the Cambodian population was brutally murdered. The Khmer Rouge are currently pursuing a military strategy similar to the one that enabled them to take Phnom Penh in 1975. They are stepping up their terrorist attacks and are chocking supply routes with the tragic result that food and medical supplies are running short across the country. Khmer Rouge leaders boast that they can win the war within a year.

The recent agreement among the four factions to a United Nations framework for a comprehensive political agreement is a significant development. However, it remains fraught with political and logistical problems and could take years to implement. In the meantime, the Khmer Rouge are literally bleeding the country to death.

During the first 8 months of this year, they sabotaged the country's two railways on 72 occasions—mining and derailing trains, and murdering and robbing passengers. Now, bolstered by China's secret delivery of 24 tanks, the Khmer Rouge are preparing a major offensive to seize the areas around Angkor Wat—Cambodia's most important cultural and historic region.

As the Khmer Rouge and the non-Communist resistance continue their offensive, Cambodian civilians suffer the heaviest casualties. Every day men, women, and children are killed by the rebels and lose body limbs to land mines. The rebels' terrorist campaign against the civilian population has resulted in thousands of casualties this year alone.

More than 350,000 Cambodian refugees have fled across the Thai border. Provisional hospitals are filled with civilians—many of them children whose arms and legs have been blow off by Khmer Rouge land mines.

There are currently 600 to 800 amputations performed a month in Cambodia. Yet, due partially to the trade embargo, almost none of the amputees have access to prosthetic devices.

During the past few months, many of us have worked to address this problem. I am pleased that the pending bill urges AID to channel assistance from the war victims fund through private voluntary organizations to Cambodian civilians disabled by the war. I also commend the language in the committee report indicating that a portion of the $5 million in humanitarian assistance to Cambodian children should be devoted to caring for victims of land mines.

Continued U.S. military support for the non-Communist forces will only help the Khmer Rouge in their bloody effort to regain power. Our diplomatic and economic isolation of Cambodia is preventing civilians from receiving proper medical treatment and care.

There is no justification for continuing to back a military solution in this devastated country. I urge my colleagues to stop funding this war and to adopt the Kerrey and Mitchell amendments, so that the United States can play a more constructive role in the political and economic development of Cambodia, and help counter the growing influence of the Khmer Rouge.

The United States should be paving the way for a just and lasting peace in Cambodia—not subjecting that beautiful and stuffering land to the risk of further genocide.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 2966), as modified, was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I am advised that before the committee amendment is adopted, Senator KERREY of Nebraska wants to offer an amendment on the Cambodia trade embargo. I see him on the floor.

I yield the floor.

AMENDMENT NO. 2967.

(Purpose: To prohibit funding the administration or enforcement of the economic embargo against Cambodia)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY], proposes an amendment numbered 2967 to committee amendment on page 9.

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

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

The amendment is as follows:

At the end of the amendment, add the following:

PROHIBITION ON FUNDS TO ADMINISTER OR ENFORCE CERTAIN TRADING WITH THE ENEMY ACT AUTHORITIES

SEC. . Notwithstanding any other provision of law, no funds appropriated by any provision of law may be made available to administer or enforce the authorities of the Trading With the Enemy Act with respect to Cambodia which were in effect before the date of enactment of this Act.

Mr. KERREY. Mr. President, this should not take a great deal of time. It simply reinforces some arguments I made earlier. Again, I understand that in this particular case, the administration will not accept this amendment, so it is apt to be opposed on the other side. I rise to make the argument, nonetheless.

We would be well served in our policy objectives; that is, the objective of having a free and independently elected government in Cambodia, that free markets be permitted to develop in Cambodia, and that those policy objectives would be well served by the United States achieving a presence in Cambodia.

One of the things that denies us that presence is the continuation of a restriction called a "Trading With the Enemy Act" restriction.

We have considered Cambodia a country to be an enemy of the United States since Vietnam went into Cambodia and took them over. We have considered that they are essentially a puppet of the Vietnamese and, in fact, that is a very difficult argument to refute, one that I would not attempt to refute. They have, in fact, enjoyed a considerable amount of support, and the evidence is pretty clear that the Vietnamese have substantial control over the Government of Cambodia.

Nonetheless, we do not have a presence at all in Cambodia. We have no one there. There are nongovernmental organizations there, but there is no economic activity on the part of American citizens there. There is no attempt on the part of the United States Government to influence the course of events in Cambodia.

Again, I urge my colleagues to consider what this country looks like. This is a country with approximately 6½ or 7 million people that are left in the country. This is a country that has never had a democracy before. The most effective political organization in Cambodia today is the Khmer Rouge. The most effective political organization is the Khmer Rouge. They are the ones that are working day in and day out to try to sell a message that is essentially anti-Vietnamese, essentially opposed to corruption that occurs in Phnom Penh itself, and essentially is increasingly successful in Cambodia.

What this enables us to do, Mr. President, is to spur efforts to establish the democratic processes and values in Cambodia. Understand again, there is no due process in Cambodia, and there never has been. The Supreme National Council, I expect, will be approved; the parties to that council will approve the agreement in Paris in December.

This council is composed of people themselves who have never been in a situation where they have said, "All those in favor, say aye." It is composed of the Khmer Rouge, chaired by a former king, Sihanouk, and it is dominated as well, by the government of Hun Sen, obviously not a government that has experienced democracy before.

This is a nation that does not understand due process. It does not understand how to protect the rights of an individual to dissent. This is a nation that has suffered greatly from 1975 to 1978 because there was an absolute military power that enabled the denial of freedoms and the persecution, the execution, and extermination of nearly 2 million people to occur.

As I said, I understand that the administration believes that the timing of this is not right. I understand the concern this might provoke and, in fact, the sort of backlash against their policy. I applaud the administration for their courage demonstrated in their policy. I applaud the progress they have made and the boldness they have demonstrated in a willingness to talk to people that, in fact, we have not talked to previously.

Mr. President, I believe this will enable American and Western business people to go to Phnom Penh. I believe this will enable us to see firsthand what is going on. I cannot emphasize enough that the people of the United States of America have very little information as to what is going on in the nation of Cambodia itself.

Mr. President, I simply ask that this particular amendment be passed with a voice vote, if that is possible, and that it be considered. If it can be accepted on the other side, I would ask that there be no requirement for a rollcall vote on this, and that we simply vote it with a voice vote at this time.

The PRESIDING OFFICER. Is there further debate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. 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. KASTEN. Mr. President, I will ask unanimous consent to temporarily set aside the pending Kerrey amendment. The reason I am doing so is there is an indication at least that this may be all or partially within the jurisdiction of the Finance Committee and we are right now making a determination with regard to the Finance Committee's attitude toward this amendment. If we could set this aside momentarily and go to one or two amendments, which could be agreed to within a matter of moments, of the Senator from Illinois, we would then go back and have the Kerrey amendment the pending business. I ask unanimous consent to set the Kerrey amendment temporarily aside.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not object, upon the completion of matters of Mr. SIMON we will go back to Mr. KERREY with the amendment pending.

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

The Senator from Illinois.

AMENDMENT NO. 2968

Mr. SIMON. 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 Illinois [Mr. SIMON] proposes an amendment numbered 2968.

Mr. SIMON. 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:

On page 174, line 17, strike the period and insert in lieu thereof the following: ": *Provided*, That no funds under the headings 'Economic Support Fund' and 'Foreign Military Financing Program' may be obligated or expended until 30 days after such report is transmitted to the Congress.".

Mr. SIMON. Mr. President, both of these amendments deal with a situation that this bill already deals with but it simply strengthens what is in the legislation a little more.

Kenya is one of Africa's most exciting countries and it is a country with huge potential. Its leader is President Moi and I have on two occasions had very pleasant visits with President Moi. But unfortunately there has been a deterioration of human rights in Kenya. We have to send a signal firmly and strongly to President Moi and all the leaders in Kenya that that is not acceptable if they are to receive American economic assistance.

Frankly, it is much more than just American economic assistance. Kenya simply cannot prosper as it should if it continues on the present course.

The first amendment requires that none of the funds may be released until 30 days after the President certifies to Congress that certain conditions have been met. It gives Congress a chance to respond.

I believe it is acceptable on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. Mr. President, if I could ask the distinguished Senator from Illinois, does he have two amendments on the desk or one?

Mr. SIMON. I have one pending.

Mr. LEAHY. Mr. President, is the one pending the one that says on page 174, line 17, strike the period and insert in lieu thereof the following: *"Provided,* That no funds under the headings 'Economic Support Fund'——

Mr. SIMON. That is correct.

Mr. LEAHY. I thank the Senator.

Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? Without further debate the Senate is prepared to vote.

The question is on agreeing on the amendment of the Senator from Illinois.

The amendment (No. 2968) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. SIMON. Mr. President, as to the second amendment I think there is some concern on the part of the two managers here. Let me read it and maybe we can enter into a dialog and take care of it without offering the amendment.

It would set condition for the release of any aid which I believe is implied in the legislation before us. My amendment would require the Government, and I quote "to release all prisoners that have been detained for exercising basic political freedoms including freedoms of expression and of assembly."

I understand that the subcommittee feels that this is covered in the bill. If they could simply reassure me that that is precisely what is meant by the language that is in there I will not offer the amendment.

Mr. LEAHY. Mr. President, let me give my assurances to the distinguished Senator from Illinois that that is our intent. We do have language that is very similar. We are seeking the same result. We have the same concern about the political prisoners.

I would ask the distinguished Senator from Illinois if he would be willing not to offer his amendment but to rely on the language we presently have in the bill. I assure him that both the distinguished Senator from Wisconsin and I share his concern about the political prisoners. I believe we have it covered in the bill. I would ask, based on those assurances, if he would be willing to withhold his amendment.

Mr. SIMON. I thank Senator LEAHY and Senator KASTEN. Let me add, I appreciate what they have done. I think it is an important step for human rights.

Mr. LEAHY. 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. SIMON. 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. SIMON. Mr. President, while we are in a little hiatus here, let me just commend my colleagues from Wisconsin and Vermont for their leadership on this. Specifically, what we appreciate is some additional assistance for Africa that is in this particular appropriation. Africa has 28 of the world's 42 poorest nations. And yet only about 11 percent of our aid overall—I have not calculated the new figures—but up until this year—have gone to sub-Saharan Africa. This bill improves that somewhat, and I think is clearly a step in the right direction in terms of humanitarian aid.

I apreciate this step forward. I commend my colleagues, Senator LEAHY and Senator KASTEN, for their leadership on this as well as the other members of the subcommittee.

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

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

## APPOINTMENTS BY THE MAJORITY LEADER AND THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader and the Republican leader, pursuant to Public Law 100-418, announces the appointment of the following individuals as members of the Competitive Policy Council:

Mr. Jack Barry, as representative from the labor community;

Dr. Bruce Scott, as representative from the academic community;

The Honorable Michael Hayden, as representative from State or local government; and

Mr. Rand Araskog, as representative from the business community.

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

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

## FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. KASTEN. Mr. President, we have at least three amendments to which the chairman of the subcommittee, the Senator from Vermont, and I agreed. I would like to see if we can bring these amendments to the floor and agree to them.

AMENDMENT NO. 2969

(Purpose: To express the sense of the Senate regarding the Angolan famine)

Mr. KASTEN. Mr. President, on behalf of Senator KENNEDY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, since the majority floor manager is not here, do we need to proceed to proposing these amendments?

Mr. KASTEN. Mr. President, this has been cleared by the Senator from Vermont.

Mr. FORD. I accept the Senator's word on that. I was just very concerned he was not here.

Mr. KASTEN. He would be here, and he has been here, in and out. He is right now at the farm conference.

Mr. FORD. I have no objection. I just wanted to be sure our side was covered.

The PRESIDING OFFICER. Is there objection to considering the amendments at this time? The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. KENNEDY, proposes an amendment numbered 2969.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

FAMINE ASSISTANCE TO THE ANGOLAN PEOPLE

Sec. . The Congress finds that—

(a) the looming famine in Angola is the world's leading humanitarian crisis, and puts at risk of starvation an estimated 1.9 million Angolans in the absence of effective international assistance;

(b) the majority of the potential famine victims reside in areas of conflict;

(c) the continuing civil war is the primary impediment to effective international famine relief efforts;

(d) the impact of famine on the Angolan civilian population is compounded by the massive effects of prolonged war and deprivation, including the loss in the course of the civil war of over 500,000 lives including 330,000 children, high malnutrition, and high civilian casualties due to land mines: Now, therefore, be it

Sec. . it is the sense of the Senate that—

(a) the United States and the rest of the international community should respond generously to the Angolan famine by providing immediate emergency assistance through appropriate international and private voluntary organizations to Angolan civilians on both sides of the Angolan conflict;

(b) the United States and the international community should strongly urge both sides of the Angolan conflict to cooperate in the famine relief effort, to facilitate the provision of emergency assistance under appropriate international auspices and to work to establish a lasting ceasefire and an end to the civil war;

(c) the efforts of the United Nations, the International Committee of the Red Cross and voluntary agencies to provide famine relief are to be commended and supported.

Mr. KASTEN. Mr. President, this amendment is supported by both sides.

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

The amendment (No. 2969) was agreed to.

AMENDMENT NO. 2970

Mr. KASTEN. Mr. President, on behalf of Mr. CHAFEE I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. CHAFEE, proposes an amendment numbered 2970.

Mr. KASTEN. 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:

In section 533, "Environment and Global Warming," after subsection (d), insert the following new subsection:

"(e) Of the funds appropriated by this Act to carry out the provisions of section 23 of the Arms Export Control Act, not less than $15,000,000 shall be made available to countries in Africa for programs which support conservation and biological diversity."

Redesignate the following subsections accordingly.

Mr. KASTEN. Mr. President, I ask unanimous consent Senator LEAHY and I be listed as original cosponsors of the Chafee amendment.

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

Mr. KASTEN. I hope now we can move forward in adopting the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2970) was agreed to.

AMENDMENT NO. 2971

(Purpose: To require an analysis of anti-narcotic resource requirements)

Mr. KASTEN. Mr. President, on behalf of Senator HATCH, I send an amendment to the desk and ask for its immedate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. HATCH, proposes an amendment numbered 2971.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ANTI-NARCOTICS RESOURCE REQUIREMENTS.

(a) The President shall undertake an analysis of the requirements necessary to bolster anti-narcotic efforts and assets of transshipment countries identified in the President's strategy.

(b) The President shall submit to the Congress, at the time of the submission of the President's budget request for fiscal year 1992, a report describing the requirements indicated by the analysis under subsection (a).

Mr. KASTEN. Mr. President, this amendment has been cleared and is supported by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2971) was agreed to.

Mr. KASTEN. Mr. President, I am in the process of going forward and asking for a quorum call. I understand the Senator from Colorado may want to speak.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

## THE TAX PACKAGE

Mr. ARMSTRONG. Mr. President, it is my understanding the managers need some time now to check some amendments and do some other things. I do want to speak on another subject. I do not want to in any way delay the progress on this bill. I was intending to speak after consideration of the bill was concluded. If there is time at this point, I have a few comments I want to make on another subject.

With that understanding, I want to address some other issues. Frankly, I was prepared to wait until whatever time this matter was concluded. I am not displeased to have a chance to say a word now.

It is getting awfully late. It is 10 o'clock. As I look around the room, I notice that some of the Members seem a little glassy-eyed and some of the staff look like their eyes are rimmed with fatigue, and I am in about the same condition myself. I have been up since 4 this morning, and I suspect other Members are in the same condition. But there is a point, even when it is late in the evening, that some things have to be said.

I did not want to let this day end without expressing again my very great concern about the tax package that is being put together even at this moment. I have just come from the Finance Committee, of which I am a member. Over in Finance, they are in the process of marking up a tax bill which, in my view, will have disastrous consequences for the economy of this country and for the taxpayers all over America.

I am sorry to report that this is another package that was developed sort of in the spirit of the summit agreement. I was not a fan of the summit process. I thought at the time and said so at the time, I guess, that it was a mistake to send a handful of people off for secret deliberations with the idea that somehow they could develop a secret package and keep everybody from knowing whose fingerprints were on what piece of the package so they would not be blamed for it, and then present it on a take-it-or-leave-it basis for the rest of us in Congress to consider and pass. That advice that I gave was not heeded.

As my colleagues know, we spent about 5½ months waiting for the summiteers to come back from the Officers' Club out at Andrews Air Force Base, and other locations, to present us a package, and it no sooner was out in the public, presented, and endorsed by the leadership of both parties in the House and Senate, than it was promptly shot down.

It was not shot down, as some have suggested, by Members of the House of Representatives, where the package was defeated in a floor vote. It was shot down by the people in America.

Mr. President, the President of the United States went on national television and was immediately followed and endorsed by the majority leader, the Senator from Maine [Mr. MITCHELL]. Mr. Bush, in his remarks, called for the people of America to get in touch with their Congressmen and Senators, to get on the phone. I do not know how it turned out in most offices, but in our office we got about several hundred calls, and I think about 93 percent were against the package and I believe 3 percent were wrong numbers.

So as far as I can tell, that was the most unpopular legislative initiative we have seen around this place since catastrophic health care was presented and put through.

So, Mr. President, it did not surprise me particularly that the summit package was shot down. I only mention that because the budget package, including the tax portion now being marked up in the Finance Committee, is going to come to the floor within 2, 3, or 4 days under exactly the same kind of parentage and heritage that we had with the summit package. That is, it is a package that was put together by three or four Senators and then presented in committee in a secret session on a take-it-or-leave-it basis. It was put to the members of the Finance Committee, in no uncertain terms, that what were euphemistically termed member amendments would not be in order. This was a leadership understanding that those would all be tabled.

Of course, that is not absolutely binding. Any member is free to offer an amendment. Whether or not some could get adopted, I do not know. I think it is unlikely, because frankly this is one of those cases where the fix is in.

When we get down to the very end of the session, the very fact that it is late in the day, late in the week, and late in the session, and time to adjourn, is used to justify a kind of speeded up process where nobody knows exactly what is in the package, where Members do not have their usual rights to offer amendments, or at least not to have them seriously considered, where the interest groups that would ordinarily be consulted in the process are not consulted, where the hearings that would ordinarily be a part of considering such complicated legislation are not held, all based upon the presumption that, well, it is just a little too late.

That is exactly what this bill is going to be when it gets here early next week. No hearings on some of the most controversial and far-reaching provisions and no real opportunity for consideration in open committee meetings, although I assume there will, before this night is over, be a committee meeting out in the open where people can see it. But most of the real work is being done behind closed doors in secret again.

I do not think that is a good practice. I say that not because I am a great lover of tradition, but I happen to think that legislating out in the open committee meetings, with adequate, preferrably ample time for the public to react to proposals and to let us know how they are affected, is not just a matter of custom and tradition, it is an essential safeguard in the democratic process.

We all know that the worst mistakes that have been made in this Chamber, in tax policy and a lot of other things, have been the result of these late-night secret sessions where a bunch of people sitting around in a room, out of the sight of the public, without the benefit of the advice of those directly affected, cook up some of these cockamamie schemes, foist them off on the public, and rush them through the Chamber on the excuse it is too late to do anything else and we have to do something.

Mr. President, I will tell my colleagues, sooner or later Senators are going to repent of the kind of legislation they are going to get. In my own case, I am regretting it a litte sooner, because having been a member of the Finance Committee, I have had a preview of what this legislation is going to be.

One of the reasons I rise tonight is to share with my colleagues some of the details of what is in that legislation, so that they can be thinking about it over the weekend. I hope that, as they do so, they will come to the same conclusion that I have: We ought to kick this package in the creek. There is no reason to pass a package like this. In fact, it is about the worst possible, idea, with this economy teetering on the cusp of a recession.

In fact, we are not really on the threshold of the cusp of a recession, we are in a recession. Some economists still debate whether that is true, but I think the vast majority of economists recognize something businessmen and consumers have been telling their Senators for several weeks, and in some cases for several months: We are in a recession.

Maybe a lot of people have not noticed it, but the bond market is sagging, the stock market is crashing. It is off 600 points in the last few weeks; off again this week I think 150 points or more. The real estate market is entering the second or third year of recession and, frankly, the experts do not know if we have hit bottom yet.

In consulting economists about what the future may be, we can get a lot of different stories. I do not know any economists—there might be one—I do not know of any economists who think we are not in a recession. What is in dispute is whether or not we are going to have a mild recession that might last a few weeks or a few months, perhaps even a continuation of the so-called rolling recession, or whether or not we are really heading into an old-fashioned depression.

I am not predicting that. I do not know. Frankly, I think a lot of the outcome is beyond our control in this Chamber, thank heavens. It turns out that in the real world, out in the real economy, things like the price of oil and other issues that are beyond the direct control of Congress really have a huge effect on the outcome.

But the reality, Mr. President, is that we can have a big effect on the outcome in this Chamber if we legislate wisely. Or at least if we refrain from legislating foolishly, we will not make the situation any worse.

Yet, as Warren Brookes has pointed out so thoughtfully and forcefully in a series of articles that have been published in a newspaper here in Washington, and I judge have been published in papers all over the country, there is not any known body of economic thought that suggests that the right medicine for the economy when you are in a recession is to raise taxes.

That is what we are doing, and this is a recession, possibly a depression, budget that we are cooking up.

Mr. President, I do not want to take time to give an exhaustive analysis of the bill, but I want to talk now about some specifics. I have made it clear that I do not favor a tax increase of any kind. I do not think this is the moment to raise taxes because our economy is just too fragile, too delicate. It just does not make sense to me. But if I did think a tax increase was necessary at this time—and I would be more favorable, frankly, to some carefully selected tax cuts, particularly a cut in the capital gains rate, but if I thought this was a time to raise taxes, I am sure as thunder would not put together a package of the kind we are going to be presented with from the Finance Committee in a very short order.

The first thing that the Finance Committee is going to do—by the way, as I understand it, this is pretty well in coordination with the Ways and Means Committee. I do not know exactly what the deal is, but, as I understand it, most of these provisions have been preconferenced or preagreed between some of the members of the Finance Committee and some members of the Ways and Means Committee.

The first things that they do in this bill—and the total revenue raising provisions in this bill, if I recall correctly, are about $170 billion—it is actually $170.9 billion over a 5-year period. That makes it, I believe, the largest tax increase in the history of America and though there is some dispute about whether it is the largest tax increase or the second largest tax increase, but it is a whopping increase, and I am certain it is the largest tax increase ever proposed, let alone enacted, at a time when the country is in recession.

Among the items which are in here are the following revenue raising provisions: First, a limit on itemized deductions. Let me explain how that lulu works. This is a little number where, if this is enacted, as I expect it probably will be, taxpayers whose income

excees $100,000 per year will be disallowed itemized deductions in an amount equal to 5 percent of their adjusted gross income in excess of $100,000.

There are a couple of exceptions, but what this really means is an effective tax rate increase on people in this income bracket. What it also means is that churches and charities and scientific research organizations and others who depend for their income on the contributions of private citizens will find it marginally more difficult to raise their contributions. Perhaps some of them will subsequently come around and suggest they ought to get a direct appropriation from the Treasury, but in the meantime they are going to take a licking.

A second proposal which is included in the Finance-Ways and Means proposed legislation which we will have a chance to vote on sometimes next week is an increase in the gasoline tax. In fact, it comes to just about a doubling, a little more than a doubling, of the tax. I believe it is now 9 cents, and in a two-step process this tax is going to raise $42.6 billion by the simple expedient of raising the tax 9.5 cents. It is going to go in stages, in a two-step process, from 9 cents to 18.5 cents.

Then they are going to raise $5.9 billion by increasing tobacco excise taxes. Mr. President, if I were going to get interested in raising taxes, this one would be all right with me. Frankly, I think smoking is not only a socially undesirable thing, it is a terrible health hazard, and I say that as one who smoked for many years. I used to smoke four packs of cigarettes a day. My dad smoked. A lot of my friends used to smoke. I tell you, if you have ever had somebody in your family, a loved one, who smoked and watched them die, you would get kind of a different perspective on that glamorous habit.

So I am not here to defend cigarette smoking. This is a place where, if I were going to raise taxes, I would be ready to raise them. But I am not here to raise taxes. I do not think that is good medicine. If we want to do something about smoking, maybe we ought to legislate in that area, and, if we do so, I will be among the first ready to proceed. But this is not a moment to raise taxes for the sake of the economy.

Then the tax-and-spend crowd wants to increase taxes on beer, wine, and distilled spirits. They intend to raise $9.1 billion over a 5-year period by increasing the tax on these industries.

They are going to impose a 10-percent tax on certain luxury items. Among those specifically are jewelry, some boats, automobiles, airplanes, furs, and so on. There are some miscellaneous details. But the long and short of it is it is just another way to squeeze about $2.1 billion out of the economy in the next 5 years.

Then they are going to increase the airport trust fund tax, an excise tax that will bring in about $12 billion over 5 years.

Here is a provision that I hope Senators will look at closely. It is technical, probably going to put some insurance companies out of business and throw some people who work in insurance companies out of jobs. They are going to raise $8 billion over the next 5 years from a provision to require that insurance companies amortize the acquisition costs of policies.

Mr. President, earlier today I said it is wise to never say never, but I did say I was never going to learn anything about insurance taxation. That is absolutely the most arcane and boring kind of tax policy I know anything about. So it is really with great reluctance that I forced myself to learn something about it, and it is very simple.

When a company sells an insurance policy, they have an acquisition cost, the sales cost, the Commission, the office expense, the advertising that goes into acquiring that policy. Now, the policy may bring in premiums for 10, 20, 30, 50, 60 years but the cost is disproportionate in the first few days of the policy. And so it has been the custom in that industry, as I understand it, to permit them to expense that if they have to capitalize it and charge it off over a period of years, which does not seem to me a completely unreasonable idea. But the way this provision is drafted, I am told that many companies will find themselves paying a tax that actually exceeds their statutory income. We all know that their statutory income is not exactly the same thing as their income computed according to generally accepted accounting principles. There is a difference.

So I asked this question: What would happen if we took this provision, if we accepted it, but capped it at no more than 34 percent of their income computed according to generally accepted accounting principles—in other words, treat them just like any other corporation is treated?

The answer came back, if we did that, it would not raise any money. So I cannot tell you exactly how hard this is going to hurt insurance companies, but what we do know is that its very reason for being in this bill is to impose on insurance companies a tax well above what other corporations pay.

I do not know, I cannot represent to you as I stand here tonight that I understand the exact effect on insurance companies, but the ones I talked to about it, the ones who called me about it, are terrified. So I hope Senators will take a long, hard look at that.

Mr. WALLOP. Mr. President, will the Senator yield for just a couple of quick questions?

Mr. ARMSTRONG. Mr. President, I will be glad to yield for questions or I will be glad to yield the floor and let the Senator speak. I have quite a few more things on my heart tonight, but I would be glad to let the Senator from Wyoming proceed.

Before I do so, one of the things I am going to do before this night is over is say a few words praising the Senator from Wyoming for a news conference which he conducted this morning which had an extraordinary turnout and at which I heard the most thoughtful statements on tax policy I have heard around here in a long time. I took the precaution of actually obtaining written copies of these statements, and I am going to read some of them and put the rest of them in the RECORD before the evening is over. I really do congratulate the Senator from Wyoming for his leadership on this matter, and I am very pleased to yield to him.

Mr. WALLOP. Mr. President, the first thing I would say to the Senator in preface to a question is that I agree with him. I know of no reputable economist in America, or anywhere else in the world for that matter, who thinks that it is wise economic policy, fiscal policy, or any other kind of policy to raise taxes on what I said this morning was the cusp of a recession. We are either in one, depending on who you listen to, or about to be in one, depending on who else you may listen to, but I know nobody who thinks we are nowhere near one. So this is a moment in time when the Senate, the country, the House of Representatives, and others ought to wake up and really understand what it is they are doing.

Has the Senator heard any serious talk in the press or otherwise about reducing expenditures as a way of making government more efficient, or has the country's attention focused primarily on merely raising taxes?

Mr. ARMSTRONG. As the Senator knows, the way we got into this jam is earlier this year there was convened a summit conference and there was a drumbeat of insistence that the President, in agreeing to the summit conference, put taxes on the table. To my regret, my everlasting chagrin, he did so. In the process we have the whole country's attention riveted on the tax question.

You know, it is not unlike the horrible situation that develops when somebody goes out on the ledge of a high building and threatens to jump. Everybody down below looks up at that poor devil who is standing up in the window or on the rooftop, wondering will he jump off or will he not? Of course, somebody down below says jump,

jump. That is the way it has been with the President.

All year long they have been trying to push him into raising taxes and to some extent, I regret to say, they have succeeded. In the process, we have lost sight of what we ought to be thinking about, which is finding ways to curtail spending.

The fact of the matter is, we could get this budget deficit under control in short order by spending restraint. If you wanted to cut spending, which I do, you could solve this problem quickly. But assuming there is not the political willpower to ever cut anything, if you just take it as a given that you cannot cut back, if you cannot spend less on any of the 1,176 Government programs in any year than you spent the last year, you still do not have to raise taxes to solve the budget deficit gap. All you have to do is restrain the growth. We have completely lost sight of that, as the Senator from Wyoming points out.

I thank him for doing so. In fact, the worst of it is this: In this deficit reduction package, in what is going to come out of the Finance Committee tonight, or tomorrow morning, or very soon, not only are we not addressing the kind of spending issues as we ought to, but we are actually starting new programs. In fact, that is one of the things I was going to bring out, if the Senator would indulge me just a moment.

I have here a list which I will presently ask to put in the RECORD of some $2.6 billion in new spending for Medicare which is started by this deficit reduction package; $1.635 billion in new spending for Medicaid, which is started by this package. There are a few worthwhile reforms in this package as well.

But the very idea that we would be starting new spending in the bill, the very purpose and intent of which is to somehow close the deficit gap, just shows how far off the track we have wandered.

Mr. WALLOP. Let me pose another question to the Senator. I do not know what his other committee assignment besides Finance is, but let me describe to him my experience this week in the Senate Energy and Natural Resources Committee.

Under the terms of reconciliation, we were given a target, I think, of some $370 million to reduce under the terms of reconciliation. The proposals that were sent to us by the Budget Committee were all proposals to, in essence, raise taxes. They called them fees—camping fees, recreation fees in the Forest Service, mining fees for hard rock miners, and a variety of other things. But they are in effect taxes. They are new items for which Americans have to pay to do what they have been doing less expensively in the past.

I would add that this is not the fault of the chairman of the committee, these are things that were sent down to us. So I suggested to the chairman that we examine how much could be saved if we just reduced 5 percent of the overhead budget, not the program budget, in the Department of Energy and the Department of the Interior.

I do not know what the figure is, and do not to this day because, guess what? Even if we knew the figure, under this wretched budget procedure which we have devised for ourselves in this Congress, we would not be able to insist on efficiency in government and savings for the American people. The only thing that we can do is to raise taxes, commonly called fees.

Mr. ARMSTRONG. Or vote no.

Mr. WALLOP. Or vote no. That happens.

Let me suggest the second thing that happens. We have under the jurisdiction of that committee a small place called Water Island, which is located in the United States Virgin Islands. Water Island is a property of the United States which is leased by a private corporation. The terms of that lease, which comes due in 1992, require the United States to purchase the assets at fair market value on the termination of the lease. That presents a fiscal obligation to the United States. It is a contract.

I suggested that we sell Water Island and recoup to American taxpayers $35 million more than some of the fees that we were going to impose and take credit for the abrogation through sales of the obligation that was going to incur upon the United States.

Guess what? According to the Budget Act under which we all operate, that is an asset sale and therefore not availble to the taxpayers of the United States to reduce our deficit because it is only one time. One-time money does not count. It is only long-time money. The only long-time money is taxes. But had we given it away, we could have been scored for the credit of the obligation that comes on the termination of the lease. To give away $35 million, we could have gotten perhaps $5 or $6 million scored. But that is the process that we have developed for ourselves.

I then suggested that we examine ANWR. Actually I did not. I have to say it was the Senator from Alaska [Mr. MURKOWSKI] who did that. But I examined it from the perspective of the Budget Act. Whether or not one is in agreement with that or not, the fact of it is that this requires us all to raise $3 billion in fees. This one act would have done it—the leasing of ANWR.

It would have provided relief for Americans, America's budget crisis—not a resolution. It would have had provided relief for America's energy crisis—not a resolution. But under the Budget Act that is considered to be an asset sale because, if we lease it and produce the oil, the property that returns to the United States is less valuable on its return than it is today.

But the fact is that since you cannot lease it, it has no value today. There is no business sense of any sort in this process. However, it is CBO who scores it as an asset sale for the purposes of the Budget Act. It is OMB who scores it not an asset sale and available under sequester.

The question that I ask the Senator is that under the Budget Act it appears that no committee save the Appropriations Committee can provide Americans efficiency in government as a means of resolving the defict crisis. And the only means by which we can reach that is to go to sequester or some sort of spending freeze. Either of those is preferable to the American taxpayer than taking that money out of his or her pocket, whether it is through insurance companies, beer companies, or the gasoline tax, whether it is incurred by the wealthy, or anybody else.

Somehow or another that money comes out, does it not, of the economy? And would it not be better in the mind of the Senator from Colorado to devise a budget act later that works better, but in the meantime provide the American people with real savings to address this budget deficit?

Mr. ARMSTRONG. The Senator from Wyoming is absolutely right. Not only have we rather consistently refused to consider spending restraint, but we have actually created a situation in which if a Senator arose to offer an amendment to substitute spending restraint for a tax increase, such an amendment would probably be ruled out of order. That is how degenerate this process has become.

As the Senator pointed out, in committee after committee, I believe next week on the floor, we are going to discover it will be almost impossible to craft an amendment which will get through the parliamentary hurdles to permit us to talk about spending restraint instead of raising taxes. And I use the word degenerate advisely. There is a process which is corrupt, which really is not faithful to the best traditions of our country, and leaves Senators like the Senator from Wyoming and myself, and many others, no real alternative but to rail against it and vote "no."

Mr. WALLOP. Let me ask the Senator one further question: What must it be like in the minds of the poor souls in America that are so unwise as to be watching us tonight to try to understand how it is that taxes count, and that spending restraint is not available to us to relieve them of the tax burden and of the deficit burden, the debt burden that we are putting on them?

Mr. ARMSTRONG. Let us explain that to anybody who is curious in about two sentences. We put ourselves in this straitjacket by adopting the budget resolution last week.

The Senator from Wyoming did not vote for it, and the Senator from Colorado sure as thunder did not vote for it, and in fact we warned this would be the result, because one feature of that ill-advised budget resolution was to create this parliamentary straitjacket that forbids the serious consideration, in at least most cases, of spending restraint as an alternative to raising taxes and fees. We did it to ourselves. It is not an act of God, it is not inevitable, it is not rocket science, not a mystery, a hurricane, or a natural catastrophe.

We are responsible. We did it. Every single person in this Chamber who voted for that budget resolution had a hand in making this horrible situation possible.

Mr. President, I do not say that to criticize. I say it because the representation that was made to Senators when they voted for that budget resolution is, well, it does not count, does not matter. We are not shooting with real bullets. After all, this does not really enact legislation.

Subsequently, you will have the right to look at the legislation when it comes out of committee and to make up your own mind. That is true.

The only real alternative we may have is to simply vote no. I say maybe, because some of us are trying to craft some amendments which would work there way through the parliamentary thickets to gain consideration on their merits. I do not know if we will be successful. If we are, I hope Senators will think of what they have done and what they are about to do to the American economy and vote to restrain spending instead of raising taxes in the teeth of a recession. If we do not succeed in that, then it appears to me that for anybody concerned about these issues, the only alternative is to vote "no."

Mr. WALLOP. I say to my friend from Colorado that I weep for Americans tonight, and I weep for the Senate and the Congress and even the President tonight, because under the terms of the Budget Act and the reconciliation procedure, I think that we will be denied the opportunity to provide Americans the alternative of spending restraint, unless we can so derail it so as to lead to its defeat or its failure to be adopted.

Other than that, what we have done is tell Americans that we have not provided them one iota of accountability, but only a means by which their taxes will be raised. I remember talking on the night we were trying to adopt this budget resolution, and the Senator from Arkansas, quite honestly, said, "I can think of at least 20 reasons why I should vote against this resolution," and I said in my remarks later that he will have the opportunity to visit each of those 20 reasons and vote against them. He will accept it, and so will other Senators on this floor, and at the end of the day, we will have raised their taxes and not done anything to provide them a more efficient Government. I regret that, but I think that is the process set in motion by the vote for the budget resolution the other night.

Mr. ARMSTRONG. While the Senator from Wyoming is here, I want to talk about that press conference he conducted this morning. Before I do so, I would take half a minute to mention one more item that is a specific, which is contained in this package that is under development, because it is so shocking that I would not want to let the evening end without referring to it and letting Senators know about it, so they can check with their people and see how they feel about it. It is item D-14.

I will put this table in the Record with unanimous consent. I call the attention of the Senators to the $4.1 billion item that will be raised by item D-14, "corporate interest disallowance." What do you suppose that means?

I am going to tell you. It means that if you are a business corporation and you litigate a dispute with the Internal Revenue Service and ultimately lose—that is, if you go to court in good faith and fight it out with the Internal Revenue Service, you not only have to pay the taxes that are due, you also have to pay the interest. That is the present law. In other words, if you owed money, you have to pay interest on what was due from the time it was due until you ultimately pay for it. That is fair. This proposal says that such interest does not constitute a business deduction. It is not a business expense.

Mr. President, aside from the fact that that is going to extract some $4.1 billion from corporations, just at the moment when corporate profits are plummeting, it has another insidious, I think outrageous, effect. It is one more unfair form of leverage for the Internal Revenue Service over the heads of taxpayers.

The taxpayers I talked to, corporations and individuals, really think they are playing on an unlevel playing field already. Some of them go so far as to say that the IRS is almost like a Gestapo. I am sure there are some cases where the IRS goes so far that it must seem like that.

I do not think that is a general situation. I think most IRS agents and staff are honest, conscientious, dedicated civil servants, men and women who, in fact, are sensitive to the needs and concerns of taxpayers, but if you are just a taxpayer, if you are not a tax lawyer, tax accountant, just a businessman someplace out in America, or just an individual taxpayer, going up against the IRS, who has unlimited personnel and unlimited lawyers and unlimited amounts of time, frankly, it is pretty awesome and scary.

Mr. WALLOP. I ask my friend if he is aware that one of the ways in which this will raise the $4 billion is to cause businesses to forgo the option of trying to prove their innocence?

Mr. ARMSTRONG. Of course. That is what it is all about.

Mr. WALLOP. It is not that the interest is nondeductible. They will not be able to afford the gamble. So they will concede their guilt, knowing of their own innocence, but unwilling to challenge it in court.

Mr. ARMSTRONG. The Senator is completely right.

I send this table to the desk, and I ask unanimous consent that it be printed in the RECORD in full. I see I have made pencil notations on it, and I ask that my pencil notes be ignored so just the table is printed in the RECORD.

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

BUDGET RECONCILIATION—REVENUE PROPOSALS

[In billions of dollars]

| Item | Effective | Fiscal year— | | | | | |
|---|---|---|---|---|---|---|---|
| | | 1991 | 1992 | 1993 | 1994 | 1995 | 1991–95 |
| A. Extend Expiring Provisions through 12/31/91:[1] | | | | | | | |
| 1. Foreign allocation of R&D | | −.5 | −.3 | | | | −.8 |
| 2. Research and experimentation tax credit [2] | | −.5 | −.4 | −.1 | −.1 | ([3]) | −1.2 |
| 3. Employer-provided educational assistance (include graduate students) | | −.3 | −.1 | | | | −.4 |
| 4. Employer-provided group legal services | | −.1 | ([3]) | | | | −.1 |
| 5. Targeted jobs tax credit | | −.1 | −.1 | −.1 | ([3]) | ([3]) | −.3 |
| 6. Business energy tax credits (solar, geothermal, and ocean thermal property) | | −.1 | ([3]) | ([4]) | ([4]) | ([4]) | −.1 |
| 7. Low-income housing credit | | −.2 | −.3 | −.4 | −.4 | −.4 | −1.7 |

BUDGET RECONCILIATION—REVENUE PROPOSALS—Continued

[In billions of dollars]

| Item | Effective | Fiscal year— 1991 | 1992 | 1993 | 1994 | 1995 | 1991–95 |
|---|---|---|---|---|---|---|---|
| 8. Mortgage revenue bonds and mortgage credit certificates | | ([3]) | −.1 | −.1 | −.1 | −.1 | −.4 |
| 9. Qualified small-issue manufacturing bonds | | ([3]) | −.1 | −.1 | −.1 | −.1 | −.3 |
| 10. Health insurance for self-employed (25 percent deduction) | | −.3 | −.1 | | | | −.4 |
| 11. Orphan drug tax credit | | ([5]) | ([5]) | ([5]) | ([5]) | ([5]) | ([5]) |
| Subtotals, extension of expiring provisions | | −2.0 | −1.4 | −.8 | −.7 | −.6 | 5.5 |
| B. Other Tax Incentives | | | | | | | |
| 1. Energy incentives: | | | | | | | |
| a. Extend nonconventional fuels tax credit (section 29) Permanently and expand tight sands gas | 1/1/91 | ([3]) | −.1 | −.2 | −.3 | −.4 | −1.0 |
| b. Tax incentives for ethanol production | 1/1/91 | ([6]) | ([6]) | ([3]) | −.1 | −.1 | −.2 |
| c. 15 percent for enhanced oil recovery costs[7] | 1/1/91 | ([3]) | ([3]) | ([3]) | −.1 | −.1 | −.2 |
| d. Percentage depletion amendments | 1/1/91 | ([3]) | ([3]) | −.1 | −.1 | −.1 | −.3 |
| e. Exploratory drilling credit and preference cutback [7] | 1/1/91 | −.2 | −.3 | −.3 | −.3 | −.3 | −1.4 |
| f. Reduce AMT preference for percentage depletion on stripper wells [7] | 1/1/91 | ([3]) | −.1 | −.1 | ([3]) | −.1 | −.3 |
| 2. Additional small business incentives: | | | | | | | |
| a. Modify estate freeze rules (section 2036(c)) | 10/9/90 | −.1 | ([3]) | −.1 | −.2 | −.3 | −.5 |
| b. Public accommodations expenditures: | | | | | | | |
| i. Disabled persons access tax credit (50 percent/$5,000 [8] | D/o/E | | | | | | |
| ii. Lower cap on section 190 expensing [9] | D/o/E | | | | | | |
| c. Expand section 179 expensing to $14,000 | 1/1/91 | −.5 | −.8 | −.5 | −.4 | −.3 | −2.5 |
| Subtotals, other tax incentives | | −/.6 | −1.3 | −1.3 | −1.5 | −1.7 | −6.4 |
| C. Progressivity enhancement proposals: | | | | | | | |
| 1. Increase EITC (target per Summit Agreement) | 1/1/91 | −.1 | −1.1 | −1.2 | −1.3 | −1.3 | −5.0 |
| 2. Additional EITC [10] | 1/1/90 | −.1 | −1.1 | −2.7 | −3.5 | −4.5 | −11.8 |
| Subtotals, progressivity enhancement proposals | | −.2 | −2.2 | −3.9 | −4.8 | −5.8 | −16.8 |
| D. Revenue-raising provisions: | | | | | | | |
| 1. Limitation on itemized deductions 7/11/ [11] | 1/1/91 | .9 | 6.5 | 6.6 | 7.2 | 8.0 | 29.3 |
| 2. Motor fuels tax (4 cents; 9 cents after 7/1/91; 9½ cents after 1/1/92) [12] | 12/1/90 | 4.6 | 9.6 | 9.4 | 9.5 | 9.5 | 42.6 |
| 3. Increase tobacco excise taxes by 4 cents pack in 1991 and by 4 cents per pack in 1993 | 1/1/91 | .6 | .8 | 1.5 | 1.5 | 1.5 | 5.9 |
| 4. Increase beer, wine, and distilled spirits excise taxes[13] | 1/1/91 | 1.4 | 2.0 | 1.9 | 1.9 | 1.9 | 9.1 |
| 5. Impose 10 percent luxury excise tax[14] | 1/1/91 | .2 | .4 | .5 | .5 | .5 | 2.1 |
| 6. Expand ozone-depleting chemical excise tax[15] | 1/1/91 | .1 | .1 | .1 | .1 | .1 | .5 |
| 7. Extend Leaking Underground Storage Tank (LUST) Trust Fund excise tax (5 years) | 12/1/90 | .1 | .1 | .1 | .1 | .1 | .6 |
| 8. Increase Airport Trust Fund aviation excise taxes (5 years) [16] | 1/1/91 | 1.3 | 2.3 | 2.5 | 2.7 | 3.0 | 11.8 |
| 9. Increase harbor maintenance excise tax | 1/1/91 | .3 | .3 | .4 | .4 | .4 | 1.8 |
| 10. Loss deductions and salvage values for insurance companies | 1/1/90 | .3 | .2 | .2 | .2 | .2 | 1.1 |
| 11. Amortize insurance policy deferred acquisition expenses (DAC) | 9/30/90 | 1.5 | 1.7 | 1.7 | 1.6 | 1.5 | 8.0 |
| 12. Adopt tax compliance provisions including certain provisions from H.R. 4308 and S. 2410 | 3/20/90 | ([6]) | ([6]) | .1 | .1 | .1 | .3 |
| 13. Retiree health with reversion excise increase and asset cushion requirement [17] | 1/1/91 | .5 | .2 | .2 | .1 | ([6]) | 1.0 |
| 14. Corporate interest disallowance | 1/1/91 | 3.3 | .3 | −.2 | .2 | .5 | 4.1 |
| 15. Business tax provisions: | | | | | | | |
| a. Expand and clarify reporting and allocation rules for certain asset acquisitions | 10/10/90 | ([6]) | ([6]) | ([6]) | ([6]) | ([6]) | .1 |
| b. Require accrual of redemption premium for certain preferred stock | 10/10/90 | ([6]) | .1 | .1 | .1 | .1 | .4 |
| c. Expand application of CERT rules to subsidiary acquisitions | 10/10/90 | ([6]) | .1 | .1 | .1 | .1 | .4 |
| d. Require recognition of corporate-level gain in certain divisive corporate transactions (5-year limitation period) | 10/10/90 | ([6]) | ([6]) | ([6]) | ([6]) | ([6]) | .2 |
| e. Clarify treatment of debt exchanges | 10/10/90 | .1 | .1 | .1 | ([6]) | ([6]) | .3 |
| 16. Extend IRS user fees (permanent) [18] | 9/30/90 | ([6]) | ([6]) | ([6]) | ([6]) | ([6]) | .2 |
| 17. Extend medicare (HI) tax to all State and local employees[19] | 1/1/92 | | .7 | 1.4 | 1.6 | 1.6 | 5.2 |
| 18. Extend Social Security (OASDI) to State and local employees not participating in public employee retirement system [20] | 1/1/92 | | 1.4 | 2.1 | 2.2 | 2.4 | 8.1 |
| 19. FUTA surtax (5 years) [18] | 1/1/91 | .8 | 1.1 | 1.1 | 1.2 | 1.2 | 5.4 |
| 20. Increase railroad retirement payroll taxes [18] | | ([6]) | ([6]) | ([6]) | .1 | .1 | .2 |
| 21. Payroll tax stablization | | 1.0 | 2.2 | −3.2 | | | |
| 22. Extend telephone excise tax and modify collection period | 1/1/91 | 1.6 | 2.6 | 2.8 | 2.9 | 3.1 | 3.1 |
| 23. Increase medicare (HI) wage cap to $89,000 | 1/1/91 | 1.3 | 4.1 | 4.2 | 4.5 | 4.8 | 19.0 |
| Subtotals, revenue-raising provisions [21] | | 19.9 | 36.9 | 33.6 | 38.8 | 40.7 | 170.9 |
| E. Other provisions: Increase JCT refund review threshold | D/o/E | | | | | | |
| Grand totals | | 17.1 | 32.0 | 27.7 | 31.8 | 32.6 | 142.1 |

[1] All estimates assume full restoration of tax benefits for 1990.

[2] Credit rate is retained at current level of 20 percent; base limitation is retained at current level of 50 percent.

[3] Loss of less than $50 million.

[4] Gain of less than $10 million.

[5] Loss less than $10 million.

[6] Gain of less than $50 million.

[7] Tax incentive is phased out when price of crude oil is $28 per barrel or more. The estimate in the revenue table is based on current Congressional Budget Office (CBO) macro-economic forecast which projects crude oil in the range of $18 to $23 per barrel during FY 1991–95.

[8] Provide maximum $5,000 per year credit for 50 percent of eligible expenditures to make public accommodations accessible to disabled persons; limited to small businesses.

[9] Reduce the amount of expenses eligible for expensing under section 190 to a level sufficient to make the proposal revenue neutral.

[10] Additional EITC equal to total 5-year tax credit expenditure contained in latest Senate child care offer. Senate child care offer assumes inclusion of Title IV and Labor and Human Resources Committee child care.

[11] Disallow itemized deductions in an amount equal to 5 percent of AGI in excess of $100,000 for single returns, $100,000 for joint returns, and $100,000 for head of household returns. Proposal does not apply to medical expenses or investment interest. Disallowance under the proposal cannot exceed 80 percent of otherwise deductible itemized deductions subject to the proposal.

[12] Motor fuels tax dedicated to highway trust fund. Railroads will pay 50 percent of increase in rates; revenue increase dedicated to deficit reduction. Each State to receive Highway account apportionments and allocations equal to at least 95 percent of its contribution attributable to increased revenue.

[13] Increase distilled spirits by $1.20 (to 13.70/proof gallon); double beer to 32 cents/6-pack ($18/barrel); increase table wine to 21 cents/bottle ($1.07/gallon); maintaining current differential for fortified wines; with small winery/brewery exemption.

[14] Tax applies to specific newly-manufactured items with retail prices above the following thresholds: automobiles–$30,000; private boats and yachts—$100,000; jewelry—$5,000; furs—$5,000; and airplanes—$250,000. An 80 percent business use test applies for forgiveness of tax on airplanes, claimed on the tax return the year following purchase, and allowed only if business use can be demonstrated to be 80 percent for that year. Tax is 10 percent of purchase price in excess of thresholds.

[15] The tax with respect to the new chemicals subject to the tax is as follows: 1991—$1.37, 1992—$1.37, 1993—$1.67, 1994—$3.00, 1995—$3.10.

[16] This estimate is presented relative to the CBO baseline which assumes extension of the Airport and Airway Trust Fund (AATF) taxes with the tax reduction in effect. The estimate reflects the effects both of removing the trigger and of increasing the rates of certain of the AATF taxes by 25 percent as proposed in the President's budget. The tax revenues go to the Airport and Airway Trust Fund.

[17] Permit certain tax-free transfers of excess pension assets to pay retiree health benefits. (Revenue effect in billions: 1991=$0.5; 1992=$0.3; 1993=$0.2; 1994=$0.2; 1995=$0.1; 1991–95 Total=$1.3.) Generally effective for reversions after September 30, 1990, increase the reversion excise tax to 20 percent. If the employer does not transfer 20 percent of the reversion to a qualified replacement plan (on 15 percent if certain benefit increases to plan participants and retirees are provided), the reversion tax is 40 percent. (Revenue effect in billions: 1991=Loss of less than $50 million; 1992=$−0.1; 1993=$−0.1; 1994=$−0.1; 1995=$−0.1; 1991–95 Total=$−0.3.)

[18] Estimate provided by CBO.

[19] HI rate = 0.8 percent in 1992, 1.35 percent in 1993, 1.45 percent in 1994 and thereafter.

[20] In the House, the Energy and Commerce Committee would be allowed offsets of $2.0 billion (5-year total) with respect to the provision that extends the Social Security taxes to State and local employees not covered by a public employee retirement system; the Ways and Means Committee would be allowed offsets of an additional $2.0 billion (5-year total) with respect to the same provision. In the Senate, the Senate Finance Committee would be allowed offsets of $4.0 billion (5-year total) with respect to the same provision.

[21] Proposal includes additional EITC and telephone excise tax corresponding to the Senate child care offer (Conference on H.R.3).

Notes.—Details may not add to totals due to rounding. Interaction between or among items has not been taken into account for the purpose of this table. D/o/E in "Effective" column = Date of enactment.

Mr. ARMSTRONG. I want to take a moment to mention and discuss with the Senator from Wyoming that news conference at which he presided this morning. I have attended a lot of news conferences in my time, and this is the best one I have been to in years, for the turnout, attendance, quality of message, and the general enthusiasm. Senator WALLOP began the meeting and made many of the same comments he made here tonight about what it means to raise taxes when the economy is teetering on the brink of a recession.

Then I wonder if my friend remembers that wonderful statement that our colleague from Delaware, BILL ROTH made. I would like to read a little of it, because it was a crackerjack of a statement. I have the text, and I would like to share part of it: He said this in part:

So here we go again! With the World Series getting underway, all I can say is that right now, in America, bases aren't the only thing being stolen. In fact the moves some in Congress are putting on the taxpayer would put Rickey Henderson to shame. At the risk of stretching this baseball metaphor, yesterday there was no doubt but that budget negotiators were in a run-down, but in the end it's our tax-paying families who are going to get squeezed!

His statement goes on, and it is a wonderful, witty, thoughtful, incisive analysis. He sums up by saying, our message is loud and clear: no new tax.

I ask unanimous consent that Senator ROTH's statement be printed in the RECORD.

ROTH: PROPOSALS FOR HIGHER TAXES SHOULD HIT THE BENCH

WASHINGTON.—At a press conference today, Senator William V. Roth Jr., R-DE, once again called on Congress to abandon tax increases as a means of reducing the federal deficit. The following is the text of his remarks:

So here we go again! With the World Series getting underway, all I can say is that right now, in America, bases aren't the only thing being stolen. In fact the moves some in Congress are putting on the taxpayer would put Rickey Henderson to shame. At the risk of stretching this baseball metaphor, yesterday there was no doubt but that budget negotiators were in a run-down, but in the end it's our tax-paying families who are going to get squeezed!

Unfortunately, the play-offs and World Series will come to an end, but I'm afraid this proclivity to tax and spend in Washington never will. But I have one question—a question that I keep hearing from my fellow Delawareans—how much is enough? How much of Americans' hard-earned money will be enough for government—for this insatiable appetite that only gets hungrier the more it's fed?

Our message is loud and clear: No new taxes.

Unless we put the brakes on now, it will never be enough. Congress already spends $158 for every new dollar it taxes. It will never be enough.

In fact, if we eventually take every dollar—every drop of sweat and blood—from the American taxpayer, it still won't be enough. The communists tried it and they failed.

Right now, the Federal Treasury is projected to take in over $1.1 trillion in fiscal '91. This is more than a doubling of revenues since 1980, representing an increase of $618 billion. However spending has outstripped even this enormous increase, and some are trying to make the taxpayers believe that this enormous increase isn't enough and it's their fault!

The American people are not undertaxed—they're overtaxed. They understand this—why can't Congress?

Congress never learns. Somehow it keeps going back to the Jimmy Carter school of economics—all pain and gain for the economy. We need policies for growth, incentives for savings, capital for investment—research and development.

What we get is a Congress that talks deficit reduction but votes deficit increases. Even as deficit talks continue—just last night the Senate passed a spending bill of our $19 billion—more than a seven percent increase over last year. This is no way to bring the deficit down.

We have to stop this congressional blackhole. We have to draw the line on federal spending and cut waste, fraud and abuse wherever possible. These along with a growing economy will cover the deficit and get America moving into a confident future.

Mr. WALLOP. Mr. President, I remember well the statement of the Senator from Delaware. I also remember—and I hope the Senator has it, and if not, I will find it tomorrow and insert it in the RECORD—the statement from the former Director of the office of Management and Budget, Mr. Miller, who pointed out why this procedure has led us to the politics of class and not the resolution of deficits.

Mr. ARMSTRONG. I would be grateful if the Senator would do that. I did not see that Mr. Miller had a written testimony, and I did not receive it. His message was crystal clear. He was speaking without notes and he outlined in about 1 minute how foolish it would be for us to raise taxes when instead we ought to be cutting spending or at least restrain spending.

Mr. WALLOP. Also how foolish it is to divide Americans over the budget deficit, not unite them in the simple challenge of trying to reach a resolution through more efficient Government and not through the politics of spite.

Mr. ARMSTRONG. We ought to put that in the RECORD.

Another greater statement was made by the Senator from Wisconsin who summed it up so well. He said:

Today, I want to urge the President to abandon the idea of getting a budget deal with the Democrats—and to renew his "no new taxes" pledge.

If the Democrat-controlled Congress can't pass a no-tax budget, then the President ought to veto reconciliation and manage the Federal government under a sequester.

Mr. President, I ask unanimous consent that there be printed in the RECORD the Senator's full statement, which I think every Senator ought to look at and indeed take to heart.

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

KASTEN: HOLD FIRM AGAINST ALL TAXES

WASHINGTON, DC.—The following statement was issued by U.S. Senator Bob Kasten, R-Wis., at a Capitol Hill press conference held by Senate Republicans against income tax increases in the budget agreement.

"Today, I want to urge the President to abandon the idea of getting a budget deal with the Democrats—and to renew his no new taxes pledge.

"If the Democrat-controlled Congress can't pass a no-tax budget, then the President ought to veto reconciliation and manage the Federal government under a sequester.

"The President has bargained in good faith—he agreed to tax revenue increases that the Democrats so desperately wanted—but he got absolutely nothing in return from them.

"I don't think the American people want to go back to the days of high tax rates and a tax code riddled with loopholes. I don't think they want to give tax shelters a new lease on life and create new jobs for tax accountants, lawyers and financal planners."

Mr. KASTEN. Mr. President, I thank the Senator for including my statement in the RECORD. I associate myself with the views of the Senator from Colorado and the Senator from Wyoming.

I also wanted to bring up one additional point on the process question that the Senator raised not long ago. Not only are we in the position of having a very difficult time with this new agreement of substituting spending reduction for tax increases, we also are going to be finding ourselves in a very difficult procedural situation where when we try to have dynamic income-producing kinds of tax changes incorporated in any piece of legislation after this bill passes, specifically, a tax bill such as capital gains tax reform which would increase jobs, increase revenues, reduce the deficit and help our economic recovery is now going to be under certain kinds of rules whereby the supermajority are going to be required in order to adopt these kind of changes. Not only are we going to be limited in the ability to substitute spending from tax issues, we also are going to have a very, very difficult time incorporating dynamic kinds of tax changes, a very difficult time incorporating revenue-producing kinds of tax changes, such as the reduction of our capital gains tax.

Mr. ARMSTRONG. Mr. President, one of these days, soon, we are going to cut the capital gains rate, and when that happens, history will record that the Senator from Wisconsin, BOB KASTEN, led the fight. I have heard him talk about this, I guess, on a hundred occasions. You run into him on the street, and he is talking about cutting the capital gains rate. He is not obsessed by it, but he realizes if we are serious about jump starting this econ-

omy, we have to do something to encourage capital investment. The proposal which Senator KASTEN and some other folks have introduced is exactly what we ought to do. I thank him for raising the issue again tonight. I agree with him completely.

Mr. President, I have a number of other matters I want to discuss but I notice the two leaders are on the floor and it is not my desire to delay them. I am happy to suspend my remarks to let the leaders go ahead and transact their cleanup business and whatever they have and then I will pick up at this point if I may.

THE PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague for his courtesy.

## UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the pending bill H.R. 5114 be laid aside, and that no call for the regular order except the one made by the majority leader after consultation with the Republican leader to bring the bill back before the Senate and that on Monday, October 15, at 10 a.m., the Senate proceed to the consideration of S. 3189, the Department of Defense appropriations bill; that following third reading and passage of the Department of Defense appropriations bill, the Senate proceeded to the immediate consideration of H.R. 5803, the House companion measure; that the text of S. 3189 as passed by the Senate be incorporated into the House bill; and that the House bill, as amended, by the incorporation of the Senate-passed bill be deemed as having been read a third time and passed; that the Senate insist upon its amendments, request a conference with the House; and that the Chair be authorized to appoint conferees on the part of the Senate; and that all above mentioned actions take place without any intervening action or debate.

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

## ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we have now laid aside the pending bill, the Foreign Operations appropriations bill. I regret that very much, and I regret the fact that the Senate today has taken a giant step backward in our efforts to complete our business by the deadline of Friday, October 19.

First, we were delayed this morning for 3 hours during which there was a period of total inactivity in the Senate.

Second, there are a large number of amendments intended to be offered to the Foreign Operations appropriations bill.

Third, we could not get an agreement limiting those amendments.

Fourth, we could not get time agreements on those amendments which were identified.

Fifth, several Senators simply left this evening, making it impossible to proceed to votes.

It had been my hope, as I expressed earlier, that we could take up several amendments and vote on them. That proved not to be possible. Especially, it had been my hope that we could take up and vote on the Egyptian debt amendment which I know is important to the administration. But there was objection to that, and we could not proceed.

Accordingly, Mr. President, it is my judgment, and it has now been expressed in this consent agreement, that the Senate will best be served by discontinuing this session this evening and going out until Monday morning at which time we will take up the defense appropriations bill. It is my hope that at some point in the next week, we can get back to this bill, if possible, to resolve some of the disagreements and, if possible, have Senators stay here so that we can consider this legislation. But Senators should understand they can leave on a Friday and make it impossible for the Senate to continue action on this legislation. But they cannot do that and then expect to leave finally next Friday. It is not possible to have both. Senators have in the colloquial phrase this evening "voted with their feet" by simply leaving and making it not possible to continue with the business of the Senate this evening, but the result, I fear, makes it much more difficult to reach the hoped for target of adjournment by next Friday evening.

I want to put Senators on notice that next week there will obviously be a large number of matters to be brought before the Senate for final action, including the bill that we tried to complete action on tonight, and maybe we will not be able to get to it until the last day—at the rate we are going, that appears to be the case—as well as the defense appropriations bill, the conference report on the civil rights bill, hopefully, conference reports on other important matters like clean air and, of course, paramount to all our consideration the reconciliation bill which we simply must complete action on to deal with the budget.

So I regret that we were not able to make greater progress on this bill this evening. I hope that we are able to get back to it at some time next week. I made no judgment as to if or when that will occur. We will attempt in the meantime to deal with some of the many issues that have arisen in connection with it today, and Senators should expect lengthy sessions into the evening, with votes throughout the day and evening all of next week, and as a consequence of our inability to make greater progress today, possibly extending beyond next Friday.

I say that most regretfully because it had been my very strong hope and desire that we could complete action by next Friday. I still will attempt to do so, but obviously the Senate is a place that requires cooperation of all Senators and it is not possible for the leaders, Senator DOLE and myself, to accelerate the pace of the Senate beyond that which Senators wish it to be.

I hope very much that when we get to next week, we are going to be able to get started in the morning, and not have lengthy delays during the day so that we begin our deliberations late in the day and into the evening, as is unfortunately so often the case, and that we will be able to make good progress on many important measures that will be before us next week.

Mr. President, I yield to the distinguished Republican leader.

(Mr. FORD assumed the chair.)

Mr. DOLE. I yield briefly first to the Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate both the distinguished leaders yielding. One, I share the frustration in having to bring down the foreign aid bill. I should note both Senator KASTEN and I are prepared to go at any time. I realize the problems of scheduling to bring that back up. I would advise the distinguished leaders. I think I know of virtually no amendment that might come up that I am not willing to enter into an extremely short time agreement on. I will commit myself on this side, at least as one Senator to enter into the shortest possible time agreement on anything that might come up.

I think that this is an extremely important matter. It has one controversial area on Egyptian debt limit. It should note that I support the administration on that issue. I think this should get resolved. Anybody has to just watch the news today in Egypt to understand the importance of it. I will stop with that. I will speak further on this next week.

But I hope that Senators might be willing to cooperate with the leadership on this matter and work out some short time agreements so Senator KASTEN and I can get this bill back up and get it completed—because we still face a long and contentious conference after that—and allow us to get on with this. This is of vital importance to the United States.

I thank the distinguished Senator from Kansas for yielding to me.

Mr. DOLE. Mr. President, I generally agree with the distinguished majority leader, but I think this is a very contentious bill. It always is. We did not start on it until 7 p.m. and we had

one vote on it at 7:30. We have not had a vote since that.

We disposed of one amendment on Cambodia. Another amendment is beyond the jurisdiction, as I understand, of this subcommittee and properly belongs in the Finance Committee, and that amendment has been set aside.

I think the record should also reflect that on this side of the aisle we are prepared to enter into agreement on the total number of amendments, except there is a misunderstanding on one amendment on the other side that we thought had maybe some agreement that would not be offered.

I think that is what is holding up any additional agreement. I do not think anyone on this side is holding up the agreement. I do not think that was the intent of the majority leader. He did not say that. But I want the record to reflect that we are prepared right now to enter into an agreement if the junior Senator from Colorado did not offer his Mexico City amendment. I do not even know what it is.

But it is our understanding that was not to be offered. He insists it should be offered, and we cannot get an agreement on that basis. We need to protect the rights of Members on this side.

But I would suggest that even through we got a late start, as the majority leader pointed out, to complete the Labor-HHS bill in one day is not bad. And to get a good start on this bill is not bad.

At one point we only had three amendments on this side on the bill that has just been laid aside. Now that has climbed to 13. I do not know how many amendments there are on the other side. I have a feeling probably many of those 13 will not be offered or there will be a short time agreement as indicated by the distinguished manager of the bill, Senator LEAHY of Vermont.

So I am not going to despair yet on this side. I still hope we can complete our work by next Friday, maybe Saturday noon at the latest, maybe even Saturday evening before dark. But there is a lot of work to do.

I think I know the answer, but I would ask the majority leader, if we start on the defense bill at 10 a.m. Monday, if we can expect votes throughout the day? Is that correct?

Mr. MITCHELL. Yes, that is correct.

Mr. DOLE. So there could be a vote at 11 or 12 o'clock.

Mr. MITCHELL. Yes. I think there is no other way to do it. As the distinguished Republican leader knows, for the most of the past 2 years, we have attempted to stack votes on Mondays. But what we have encountered is, once Senators know there will not be votes before 6 o'clock on Monday, they will not come to offer their amendment.

So it is often a catch-22 situation.

Hopefully, next week will be the last or next-to-the-last week of the session and that Senators will be prepared to come forward and offer their amendments. And there could be votes throughout the day on Monday.

Mr. WIRTH. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. WIRTH. I thank the majority leader for yielding.

The distinguished Republican leader referred to the amendment that the junior Senator from Colorado wishes to offer and suggested in his discussion that, one, there was some understanding that this would not be offered and, second, that nobody on their side was holding up votes on this issue.

The junior Senator from Colorado would like to make clear for the record, one, that as far as I know there was no agreement reached, at least not one that was propounded by any unanimous consent on the floor. If there was, I would be happy to be corrected by the distinguished Republican leader.

Second, the junior Senator from Colorado would be very happy to offer a time agreement. As I have have said on any number of occasions, if we could have 2 hours of debate on the Mexico City issue and have a vote up or down, that is fine. I have made that point over and over and over again.

I would like to ask the distinguished Republican leader if there is a problem with following a procedure like that. The Republican leader was suggesting that nobody on their side was holding this up and that the problem of not having an agreement on this bill rests on the Mexico City issue. I would just like to ask the Republican leader if there is an objection on his side to having a time agreement and a straight up or down vote on the Mexico City resolution.

Might we get unanimous consent to have a 2-hour debate on the issue and an up or down vote; would that be agreeable?

Mr. DOLE. The Senator from Kansas indicated it was our understanding the amendment would not be offered and therefore we had no objection to getting a complete agreement of all the amendments.

But I can say if that will be offered, there will be an objection.

Mr. WIRTH. So somebody on the Republican side would object to bringing up this issue. So therefore the statement made earlier that nobody on the Republican side is holding up this legislation is not correct, Mr. Leader, and I just wanted to point that out.

Mr. DOLE. Not to bringing up the issue, but to giving any time agreement on the issue.

Again you are correct; there was no unanimous consent on the floor. But we had a rather fair understanding that the amendment would not be offered. But again that does not mean it will not be offered. It just means that we will protect the rights of our colleagues on this side of the aisle.

Mr. WIRTH. If the distinguished majority leader might yield further, the Senator from Colorado has made it clear on any number of occasions for many days that if this amendment was not offered by others, the junior Senator from Colorado was going to offer the Mexico City agreement.

There has never been any mystery, nor am I bringing something up, as might be suggested, without having made that clear. That has been made very clear.

Second, I would again say to the distinguished majority leader and to the Republican leader that I would be happy to get a time agreement and a straight up or down vote.

I do not intend to hold up this bill. If the distinguished Republican leader or the Republican, whoever it is on your side who is objecting, would like to do that, fine. But let the record be very clear that, one, there was no agreement by unanimous consent or elsewhere publicly on the floor that this amendment would not be offered. I think that is not an application or a suggestion that accurately can be made.

I, secondly, would again like to propound the request: If the distinguished Republican leader would agree to a unanimous-consent request for a limited period of time for debate, say 2 hours, and a straight up or down vote, that is fine with the junior Senator from Colorado.

But the record should not show that nobody on the Republican side is holding up this legislation. I want to make it very clear that the junior Senator from Colorado would agree, as I am sure, I think, everybody on our side would agree, to a time limitation, say, of 2 hours or whatever, and a straight up or down vote.

I thank the distinguished majority leader for yielding and for allowing me to clear up, as I think it must be, the record for absolute accuracy on this issue.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I think it is obvious this foreign operations bill is not going anywhere in the current state of affairs.

Therefore, I think the best course of action is that which we have already decided upon, which is to proceed to the Department of Defense appropriations bill on Monday, and to make as much progress as we can on that.

But I repeat for the benefit of Senators, particularly for the very large number of Senators who I can confidently predict will come to me on

Monday and say are we going to finish by Friday, that we have made a significant step backwards today toward reaching that objective.

Mr. INOUYE. Will the leader yield?

Mr. MITCHELL. Certainly.

Mr. INOUYE. Mr. President, I would like to advise the Senate at this time that I have just conferred with the ranking Republican member of the Defense Subcommittee, and we have decided we will begin our consideration at 10 o'clock in the morning as provided by the unanimous consent, and we will proceed until we complete it. It may be 3 in the morning, but we will be here until this is finished.

Mr. MITCHELL. Mr. President, may I say I hope it is not 3 in the morning, but I admire the determination of the Senator from Hawaii and we look forward to disposition of that measure on Monday.

## MORNING BUSINESS

Mr. WIRTH. Mr. President, I ask unanimous consent the Senate be in a period of morning business for Senators to speak.

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

## FOREIGN OPERATIONS APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5114, the foreign operations, export financing, and related programs appropriations bill and has found the bill exactly on its 302(b) allocation in budget authority and $48 million below its 302(b) allocation in outlays.

The bill scoring reflects an adjustment to cover the budgetary impact of Egyptian and Polish debt liquidation as provided by the budget agreement. However, this scorekeeping adjustment is provisional, pending implementation of the budget summit agreement.

I compliment the distinguished manager of the bill, Senator LEAHY, and the distinguished ranking member of the Foreign Operations Subcommittee, Senator KASTEN, on all their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the foreign operations appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 5114—FOREIGN OPERATIONS SUBCOMMITTEE—SPENDING TOTALS

(Senate Reported)

[Fiscal year 1991—Dollars in billions]

| 302(B) Bill summary | Budget authority | Outlays |
|---|---|---|
| H.R. 5114, Senate reported, (new BA and outlays) | $15.3 | 6.2 |
| Enacted to date | .3 | 7.6 |
| Adjustment to conform mandatory programs to resolution assumptions | −(*) | −(*) |
| Scorekeeping adjustment [1] | −.1 | −.2 |
| Bill total | 15.4 | 13.6 |
| Senate 302(b) allocation | 15.4 | 13.6 |
| Total Difference | .0 | −(*) |
| International spending | 14.7 | 12.9 |
| International allocation | 14.7 | 12.9 |
| International difference | .0 | −(*) |
| Mandatory spending | .7 | .7 |
| Mandatory allocation | .7 | .7 |
| Mandatory difference | .0 | .0 |
| Bill total above (+) or below (−): | | |
| President's request | −.4 | −.3 |
| House-passed bill | −.2 | −.2 |
| House 302(b) allocation | na | na |
| Programmatic baseline | −.9 | −.5 |
| [1] Value of Egyptain/Polish debt liquidation | 3.0 | .0 |
| Budget summit adjustment | −3.2 | −.2 |
| Net adjustment | −.1 | −.2 |

This is a provisional scorekeeping adjustment pending implementation of the Budget Summit Agreement.

## COMMERCE, JUSTICE, STATE APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5021, the Senate-reported Commerce, Justice, State appropriations bill and has found that the bill is under its 302(b) allocation in budget authority by $23.8 million and is over its 302(b) allocation in outlays by $1 million.

I understand that the managers of the bill offered an amendment to the bill which would bring the bill within its 302(b) allocation for outlays. The current scoring was not available to the committee at the markup.

I compliment the distinguished manager of the bill, Senator HOLLINGS, and the distinguished ranking member of the subcommittee, Senator RUDMAN, for all of their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Commerce, Justice, State appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

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

SENATE BUDGET COMMITTEE SCORING OF H.R. 5021—COMMERCE SUBCOMMITTEE—SPENDING TOTALS

(Senate reported)

[Fiscal year 1991—Dollars in billions]

| 302(B) Bill summary | Budget authority | Outlays |
|---|---|---|
| H.R. 5021, Senate reported, (new BA and outlays) | 18.8 | 14.3 |
| Enacted to date | .5 | 5.3 |
| Adjustment to conform mandatory programs to resolution assumptions | +(*) | −(*) |
| Scorekeeping adjustments | .0 | .0 |
| Bill total | 19.3 | 19.7 |
| Senate 302(b) allocation | 19.3 | 19.7 |
| Total difference | −(*) | +(*) |

SENATE BUDGET COMMITTEE SCORING OF H.R. 5021—COMMERCE SUBCOMMITTEE—SPENDING TOTALS—Continued

(Senate reported)

[Fiscal year 1991—Dollars in billions]

| 302(B) Bill summary | Budget authority | Outlays |
|---|---|---|
| Discretionary: | | |
| Domestic discretionary spending | 13.9 | 14.0 |
| Domestic discretionary allocation | 13.9 | 14.1 |
| Domestic discretionary difference | −(*) | −(*) |
| International discretionary spending | 4.4 | 4.6 |
| International discretionary allocation | 4.4 | 4.6 |
| International discretionary difference | +(*) | +(*) |
| Defense spending | .2 | .2 |
| Defense allocation | .2 | .2 |
| Defense difference | .0 | .0 |
| Total discretionary spending | 18.5 | 18.8 |
| Total discretionary allocation | 18.5 | 18.8 |
| Total discretionary difference | −(*) | −(*) |
| Mandatory spending | .9 | .8 |
| Mandatory allocation | .9 | .8 |
| Mandatory difference | .0 | .0 |
| Bill total above (+) or below (−): | | |
| President's request | −.3 | −.1 |
| House-passed bill | .1 | .6 |
| House 302(b) allocation | na | na |
| Programmatic baseline | −1.8 | −.4 |

## BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the final budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in reponse to section 308(B) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level of spending is under the budget resolution by $1.3 billion in budget authority, and over the budget resolution by $5.9 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(A) of the Budget Act is $116.5 billion, $16.5 billion above the maximum deficit amount for 1990 of $100 billion.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, October 2, 1990.*

Hon. JIM SASSER,
*Chairman, Committee on the Budget,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The attached report, my last for fiscal year 1990, shows the effects of Congressional action on the budget and is current through September 30, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated September 24, 1990, the President has signed the supplemental appropriations for Operation Desert Shield (P.L. 101-403).

Sincerely,

ROBERT D. REISCHAUER,
*Director.*

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONG., 2D SESS., AS OF SEPT. 30, 1990

[In billions of dollars]

| | Current level [1] | Budget resolution H. Con. Res. 106 | Current level +/− resolution |
|---|---|---|---|
| FISCAL YEAR 1990 | | | |
| Budget authority | 1,328.1 | 1,329.4 | −1.3 |
| Outlays | 1,171.1 | 1,165.2 | 5.9 |
| Revenues | 1,060.3 | 1,065.5 | −5.2 |
| Debt subject to limit | 3,145.8 | [2] 3,122.7 | −23.1 |
| Direct loan obligations | 19.1 | 19.3 | .2 |
| Guaranteed loan commitments | 115.1 | 107.3 | 7.8 |
| Deficit | 116.5 | [3] 100.0 | [4] 16.5 |

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] The public debt limit has been increased temporarily to $3,195 billion through October 2, 1990, by Public Law 101-350.

[3] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[4] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT, 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS SEPT. 30, 1990

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| I. Enacted in previous sessions: | | | |
| Revenues | | | 1,068,600 |
| Permanent appropriations and trust funds | 954,969 | 791,109 | |
| Other legislation | 635,362 | 638,737 | 566 |
| Offsetting receipts | −233,985 | −233,985 | |
| Total enacted in previous sessions | 1,356,347 | 1,195,862 | 1,069,166 |
| II. Enacted this session: | | | |
| Dire emergency supplemental appropriations (Public Law 101-302) | 2,293 | 666 | |
| An act making technical amendments to title 5, U.S. Code (Public Law 101-303) | | −1 | |
| Amtrack Reauthorization and Improvement Act (Public Law 101-322) | −10 | | −10 |
| Oil Pollution Act (Public Law 101-308) | | | −1 |
| Customs and Trades Act (Public Law 101-382) | | 7 | −4 |
| Operation Desert Shield (Public Law 101-403) | 2,038 | 1,665 | |
| Total enacted this session | 4,321 | 2,337 | −15 |
| III. Continuing resolution authority | | | |
| IV. Conference agreements ratified by both Houses | | | |
| V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution: | | | |
| Salaries of judges | −8 | 1 | |
| Payment to judicial officers' retirement fund | −4 | −4 | |
| Judicial survivors' annuities fund | −3 | −3 | |
| Fees and expenses of witnesses | −5 | | |
| Justice assistance | −4 | | |
| Fisherman's guaranty fund | 1 | 1 | |
| Administration of territories | −1 | | |
| Firefighting adjustments | −1,057 | −192 | |
| Federal unemployment benefits (FUBA) | 5 | | |
| Advances to unemployment trust fund | (48) | (48) | |

THE CURRENT LEVEL REPORT, 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS SEPT. 30, 1990—Continued

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Special benefits | −24 | | |
| Black Lung disability trust fund | 52 | 31 | |
| Vaccine improvement program trust fund | 7 | 7 | |
| Federal payments to railroad retirement | 1 | 1 | |
| Retirement pay and medical benefits | −4 | | |
| Supplemental security income program | 263 | 263 | |
| Special benefits, disabled coal miners | 21 | | |
| Grants to states for Medicaid | −907 | | |
| Payments to health care trust funds | (325) | (325) | |
| Family support payments to States | 84 | 84 | |
| Payments to states for AFDC work programs | 15 | 15 | |
| Payments to states for foster care | −83 | | |
| Health professions student loan insurance fund | −25 | −7 | |
| Guaranteed student loans | −175 | | |
| College housing and academic facilities loans | −3 | −3 | |
| Rehabilitation services | −79 | | |
| Payments to widows and heirs | (1) | (1) | |
| Reimbursement to the rural electrification fund | 111 | 111 | |
| Dairy indemnity program | (1) | (1) | |
| Conservation reserve program | 720 | | |
| Special milk program | −2 | | |
| Food stamp program | −2,000 | | |
| Child nutrition programs | −74 | | |
| Federal crop insurance corporation fund | (1) | | |
| Agriculture credit insurance fund | 342 | | |
| Rural housing insurance fund | (1) | | |
| Rural communication development fund | (1) | | |
| Payments to the farm credit system financial assistance corporation | −2 | | |
| Coast Guard retired pay | −17 | | |
| Payment to civil service retirement | (84) | (84) | |
| Government payments for annuitants | −3 | −2 | |
| Readjust benefits | −62 | | |
| Compensation | 258 | 208 | |
| Pensions | −62 | | |
| Burial benefits | −4 | | |
| Loan guaranty revolving fund | −7 | | |
| Disaster relief | −1,100 | −883 | |
| Total entitlement authority | −3,834 | −371 | |
| VI. Adjustment for economic and technical assumptions | −28,685 | −26,763 | −8,900 |
| Total current level as of Sept. 30, 1990 | 1,328,148 | 1,171,065 | 1,060,251 |
| 1990 budget resolution H. Con. Res. 106 | 1,329,400 | 1,165,200 | 1,065,500 |
| Amount remaining: | | | |
| Over budget resolution | | 5,865 | |
| Under budget resolution | 1,252 | | 5,249 |

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.

## TRIBUTE TO FRANCEY H. DENNIS

Mr. BRYAN. Mr. President, I rise today to congratulate one of Nevada's leaders in the field of education. Mrs. Francey H. Dennis has been recognized as one of our Nation's outstanding school leaders through the 1990 National Distinguished Principals Program.

Such recognition from the U.S. Department of Education and the National Association of Elementary School Principals brings great pride and honor to both the Silver Lake Elementary School as well as to the citizens of the State of Nevada. We all appreciate her commitment to the promotion of quality education for the children of Nevada.

Mr. President, education is one of the essential foundations upon which the continued prosperity of our Nation rests. As other countries equal or surpass the level of education of our citizens, so also will their advances in technology, health care, and world leadership surpass our own. We cannot let this happen.

If we are going to continue to improve our Nation's educational system, we are undoubtedly going to need more innovative and dedicated leaders. For this reason, it is vital to recognize the work of those devoted to education. With this prestigious award Mrs. Dennis will serve as a model of educational excellence. On behalf of the State of Nevada, I want to congratulate her for this important achievement.

## RAILROAD FUEL TAX PROPOSAL

Mr. ADAMS. Mr. President, I rise to speak to a matter that is very close to me. Late Wednesday, the House Ways and Means Committee considered and passed a proposal that imposed a railroad fuel tax proposal for deficit reduction purposes.

Mr. President, the underlying rational for this tax package was to give one industry an advantage over another industry. Mr. President, that isn't right.

As a former Secretary of Transportation, Mr. President, I can assure this body that we have the most extensive freight surface transportation network in the world. It is a network of trucks and railroads that may be regarded as the backbone of this economy. It is a network that exists with many checks and balances, assuring the flow of goods to our ports, our grocery stores and our factories.

And that is why I am very concerned, Mr. President, with this new proposal. It is not only unfair, but disruptive to a competively balanced transportation system.

Mr. President, anyone who has studied the history of Federal transportation policy knows that while the trucking industry benefits from the federally funded Interstate System, the railroads own and maintain their own rights of way. It is also true that the trucking industry pays, in the form of diesel fuel, user fees that go into a trust fund dedicated to the construction and maintenance of the highways they use. While for deficit scoring purposes the Highway Trust Fund counts as revenue, it is revenue which when used will go to the truck right-of-way infrastructure.

By contrast, the freight railroads of the country are being asked to pay a tax and shoulder the burden of deficit reduction unequally and without any value provided to their own right of way infrastructure. The system, Mr. President, becomes unbalanced.

In the end, Mr. President, this becomes an issue of fairness and equity. Both the railroad and trucking industries are important transportation systems in this country. To attempt to injure one for the advantage of the other makes no sense and is bad public policy. Imposing taxes must be done deliberatively and with great care. It is a serious matter that cannot and should not be influenced by special interest politics.

That is why, Mr. President, I send this letter to Senator BENTSEN, chair of the Senate Finance Committee. If we are to impose a tax, let us do it for the right reasons and in the right way.

Thank you, Mr. President, and I submit this attached letter to Senator BENTSEN for the RECORD.

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

U.S. SENATE,
*Washington, DC, October 12, 1990.*

Hon. LLOYD BENTSEN,
*Chair, Committee on Finance,*
*U.S. Senate, Washington, DC.*

DEAR LLOYD: Recently, there has been much discussion on the imposition of a fuel tax for deficit reduction purposes. In this context, I wanted to draw your attention to a recent fuel tax proposal made in the House Ways and Means Committee.

In particular, it was proposed that railroads pay a deficit reduction targeted fuel tax, unequal to that which is proposed for the trucking industry. As a former Secretary of Transportation I was very concerned to learn of this proposal. Both the trucking and railroad industry have and continue to play a critical role in transporting the bulk of freight and cargo throughout this country. Both have a function in supporting strong and competitive U.S. economy.

Deficit reduction is an important process that must be quickly and seriously implemented. But it is also a burden that must be shared equally among all Americans. This is really a question of equity. Accordingly, I suggest that if a fuel tax is to be imposed, and if all or part of that tax is to go straight to deficit reduction, not targeted to the highway trust fund, we make sure that the trucking and railroad industries share the burden equally. To do otherwise injures not only a particular industry, but our economy in general.

Thank you for your attention to this matter.

Sincerely,

BROCK ADAMS,
*U.S. Senator.*

## HONORING DONALD LEE KIRKPATRICK II

Mr. FORD. Mr. President, on October 14, 1990, a service will be held at the National Fallen Firefighters' Memorial in Emmitsburg, MD, to honor 113 career and volunteer firefighters from across the country who lost their lives during 1989. I rise to pay tribute to all of them, and to recognize their courage and bravery in serving others.

For those of us who value public service, we recognize that there are many ways to contribute to the improvement of the lives of those around us. Only a few of these ways, however, involve the risks and hazards associated with the role of the firefighter, and very few require individuals to expose themselves to the ultimate sacrifice of their lives. We owe a special kind of debt to these unsung individuals, who are motivated by a desire to serve.

I wish to pay a special tribute to Donald Lee Kirkpatrick II, of the Burlington Fire Protection District in Burlington, KY. My heart goes out to his family and friends, and they are in my prayers. Donald Kirkpatrick's example of service to his community has benefited all of us, and I pay tribute to him today.

I urge all of my colleagues to help focus public attention on the need for fire safety, and to join me in recognizing the unselfish sacrifice of these 113 brave individuals.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 1049. Joseph M. McLaughlin, to be U.S. circuit judge for the second circuit;

Calendar 1050. Thomas G. Nelson, to be U.S. circuit judge for the ninth circuit;

Calendar 1051. James B. Loken, to be U.S. circuit judge for the eighth circuit;

Calendar 1052. Diane G. Weinstein, to be a judge of the U.S. Claims Court;

Calendar 1053. Stephen D. Easton, to be U.S. attorney for the District of North Dakota;

Calendar 1054. William C. Andersen, to be U.S. marshal for the District of Connecticut, and

Calendar 1055. Marvin Collins, to be U.S. attorney for the Northern District of Texas.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Joseph M. McLaughlin, of New York, to be U.S. Circuit Judge for the Second Circuit.

Thomas G. Nelson, of Idaho, to be U.S. Circuit Judge for the Ninth Circuit vice J. Blaine Anderson, deceased.

James B. Loken, of Minnesota, to be U.S. Circuit Judge for the Eighth Circuit.

Diane Gilbert Weinstein, of the District of Columbia, to be a Judge of the U.S. Claims Court for a term of 15 years.

DEPARTMENT OF JUSTICE

Stephen D. Easton, of North Dakota, to be U.S. Attorney for the District of North Dakota for the term of 4 years.

William C. Andersen, of Connecticut, to be U.S. Marshal for the District of Connecticut for the term of 4 years.

Marvin Collins, of Texas, to be U.S. Attorney for the Northern District of Texas for the term of 4 years. (Reappointment)

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2806. An act to redesignate the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways; and

H.R. 3787. An act to authorize a joint Federal, State, and tribal study for the restoration of the fishery resources of the Chehalis River basin, Washington, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 5:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 2167) to reauthorize the Tribally Controlled Community Col-

lege Assistance Act of 1978 and the Navajo Community College Act; without amendment.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. SMITH of Iowa, Mr. ALEXANDER, Mr. EARLY, Mr. DWYER of New Jersey, Mr. CARR, Mr. MOLLOHAN, Mr. WHITTEN, Mr. ROGERS, Mr. REGULA, Mr. KOLBE, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROYBAL, Mr. HOYER, Mr. ALEXANDER, Mr. EARLY, Mr. SABO, Mr. DIXON, Mr. WHITTEN, Mr. SKEEN, Mr. LOWERY of California, Mr. WOLF, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 2059) to establish the Weir Farm National Historic Site in the State of Connecticut; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 1719. An act to designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as components of the Wild and Scenic Rivers System;

S. 1747. An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes;

S. 1805. An act to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; and

S. 2203. An act to settle certain claims of the Zuni Indian Tribe, and for other purposes.

The message also announced that pursuant to the provisions of section 5205(a)(1)(C) of Public Law 100-418, the Speaker and minority leader jointly appoint the following persons from private life to the Competitiveness Policy Council on the part of the House: Mr. Lynn Williams, Pittsburgh, PA; Mr. C. Fred Bergsten, Washington, DC; Mr. Edward V. Regan, Albany, NY; and Mr. John J. Murphy, Dallas, TX.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3095. An act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices;

H.R. 3789. An act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes;

H.R. 4090. An act to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes;

H.R. 4429. An act to relinquish all right, title, and interest of the United States in an to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat, 11, 36), and for other purposes;

H.R. 4765. An act to enable the people of Puerto Rico to exercise self-determination;

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes;

H.R. 5388. An act to designate certain lands in the State of North Carolina as wilderness;

H.R. 5402. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes;

H.R. 5419. An act to designate the Federal building at 88 West 100 North in Provo, UT, as the "J. Will Robinson Federal Building;"

H.R. 5428. An act to designate certain public lands in the State of Illinois as wilderness, and for other purposes;

H.R. 5507. An act regarding the Early Winters Resort;

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes;

H.R. 5667. An act to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes;

H.R. 5675. An act to authorize expansion of the Saguaro National Monument;

H.R. 5702. An act to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds;

H.R. 5708. An act to authorize acquisition of certain real property for the Library of Congress, and for other purposes:

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967; and

H.R. 5803. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

## MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on October 3, 1990, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3139. An act to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes; to the Committee on Governmental Affairs.

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4090. An act to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4429. An act to relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat, 11, 36), and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5402. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5428. An act to designate certain public lands in the State of Illinois as wilderness, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5667. An act to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5675. An act to authorize expansion of the Saguaro National Monument; to the Committee on Energy and Natural Resources.

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967; to the Committee on Labor and Human Resources.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3789. An act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

H.R. 4765. An act to enable the people of Puerto Rico to exercise self-determination.

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes.

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

H.R. 5803. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 12, 1990, he

had presented to the President of the United States the following enrolled bills:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas; and

S. 2806. An act to redesignate the National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways.

## REPORTS OF COMMITTEES

The following reports of committees were submitted on October 11, 1990:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

H.R. 3338. A bill to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina (Rept. No. 101-522).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 3095. A bill to authorize the creation of a National Education Report Card to be published annually to measure educational achievement of both students and schools and to establish a National Council on Education Goals (Rept. No. 101-524).

The following reports of committees were submitted on October 12, 1990:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 585. A bill to implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, and for other purposes (Rept. No. 101-526).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 4559. A bill to establish the Red Rock Canyon National Conservation Area (Rept. No. 101-527).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2184. A bill to assist small communities in construction of facilities for the protection of the environment and human health (Rept. No. 101-528).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 2729. A bill to amend the Coastal Barrier Resources Act, and for other purposes (Rept. No. 101-529).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2946. A bill to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes (Rept. No. 101-530).

By Mr. SASSER, from the Committee on the Budget, with an amendment in the nature of a substitute:

S. 1850. A bill to require sequestration for a fiscal year if the actual deficit for the preceding fiscal year exceeds the target by more than $10,000,000,000 (Rept. No. 101-531); referred to the Committee on Governmental Affairs.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 5401. A bill to improve the enforcement of criminal laws relating to banking, to facilitate the recovery of assets of failed financial institutions, to increase existing penalties and provide new penalties for offenses affecting financial institutions, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 3194. An original bill entitled the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990."

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Mr. Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for the remainder of the term expiring September 17, 1990;

Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for a term expiring September 17, 1993;

Richard C. Hackett, of Tennessee, to be a member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1993;

Perry L. Adkisson, of Texas, to be a member of the National Science Board, National Science Foundation for a term expiring May 10, 1996

J. Michael Farrell, of the District of Columbia, to be a member of the National Commission on Libraries and Information Science for the term expiring July 19, 1992; and

Andrew F. Reardon, of Illinois, to be a member of the Railroad Retirement Board for the term of five years from August 29, 1988.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORE (for himself, Mr. SASSER, Mr. FORD, and Mr. MCCONNELL):

S. 3192. A bill to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 3193. A bill to require the Administrator of the Environmental Protection Agency to report to Congress concerning the use of fiberglass and mineral wool as a substitute for hazardous chemicals; to the Committee on Environment and Public Works.

By Mr. BIDEN, from the Committee on the Judiciary:

S. 3194. An original bill entitled the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990"; placed on the calendar.

By Mr. AKAKA:

S. 3195. A bill for the relief of the heirs, successors, or assigns of Sadae Tamabayashi; to the Committee on the Judiciary.

By Mr. FOWLER:

S. 3196. A bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 3197. A bill to amend the Federal Prison Industries Reform Act of 1988 to provide for the creation of the maximum of jobs for Federal inmates; to the Committee on the Judiciary.

By Mr. SANFORD:

S. 3198. A bill to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site, North Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

S. 3199. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system; to the Committee on Energy and National Resources.

S. 3200. A bill to designate certain lands in the State of North Carolina as part of the National Wilderness Preservation System; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3201. A bill to direct the Secretary of Transportation to permit the city of Fayetteville, North Carolina, to allow vehicular traffic, other than buses, to use Hay Street; to the Committee on Commerce, Science, and Tranportation.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 3193. A bill to require the Administrator of the Environmental Protection Agency to report to Congress concerning the use of fiberglass and mineral wool as a substitute for hazardous chemicals; to the Committee on Environment and Public Works.

SCHOOL HAZARD REPLACEMENT MATERIAL ACT

● Mr. KOHL. Mr. President, I am introducing legislation to complement the Asbestos School Hazard Abatement Act.

In 1984, Congress recognized the risks to child health and safety posed by asbestos in our Nation's schools. Legislation was enacted to assist school districts in efforts to remove asbestos safely and expeditiously from classrooms. Today, the Senate will reauthorize that 1984 legislation.

Unfortunately, the Environmental Protection Agency [EPA] has not paid sufficient attention to screening replacement materials for asbestos for possible health hazards. The World Health Organization has listed miner-

al wool and fiberglass—materials routinely used as replacements for asbestos—as carcinogens. Despite such warnings, no effort has been made to advise school districts of these risks.

Mr. President, we now face an untenable situation. Along with local education authorities and State agencies, the Federal Government is spending millions of dollars to remove asbestos from school buildings. Yet school districts may unwittingly be replacing asbestos with materials of equal health risk. In a worst case scenario, some schools may find themselves in the same plight 10 years from now that they are in with asbestos today.

We must address this issue at once. The bill I am introducing today would instruct EPA to advise all Governors and local educational agencies within 30 days of the comparative risks of replacements for absestos such as fiberglass and mineral wool. It would further instruct the Agency to report to Congress within 60 days on what action should be taken to regulate mineral wool and fiberglass as hazardous substances under section 6 of the Toxic Substances Control Act. And, it calls upon the Administrator of EPA to report within 6 months on the need to pretest other materials likely to be used as substitutes for hazardous substances.

In closing, this is clearly in an issue of good government. Congress cannot advise school districts in my State of Wisconsin or any other State to remove asbestos as a health hazard and allow them to use substitutes that are equally dangerous. Parents, teachers, and students all expect more of us. They look to us for leadership on the environment and the health and safety of our Nation's children. The bill I am introducing today would help us fulfill those expectations. I urge my colleagues to join me in sponsoring it. And, I ask unanimous consent that it be printed in the RECORD.

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

S. 3193

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. REPORT TO CONGRESS.

(a) REPORT.—Prior to the expiration of the 60-day period following the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to Congress with respect to what action, if any, the Environmental Protection Agency has taken, or intends to take, in connection with the regulation, in accordance with section 6 of the Toxic Substances Control Act (15 U.S.C. 2605), of fiberglass and mineral wool. Such report shall include the recommendations of the Administrator.

(b) STUDY.—Prior to the expiration of the 180-day period following the date of the enactment of this Act, the Administrator shall report to Congress the views and recommendations of the Administrator regarding the desirability of, and need for, the establishment of a program for the pretesting of chemical substances and mixtures used or likely to be used as substitutes for other hazardous chemical substances and mixtures banned or otherwise restricted or regulated under section 6 of the Toxic Substances Control Act (15 U.S.C. 2605).

SEC. 2. INFORMATION.

The Administrator of the Environmental Protection Agency shall, not later than 30 days after the date of the enactment of this Act, publish and distribute to all local educational agencies and State Governors information or an advisory to describe the comparative risks associated with replacement fibers for asbestos such as fiberglass and mineral wool, including a description of the views of the World Health Organization.●

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By Mr. KERRY:

S. 3197. A bill to amend the Federal Prison Industries Reform Act of 1988 to provide for the creation of the maximum number of jobs for Federal inmates; to the Committee on the Judiciary.

PRISON EMPLOYMENT ACT

● Mr. KERRY. Mr. President, today I am introducing the Prison Employment Act of 1990. This bill addresses the problems posed by the rapidly growing Federal prison population. It will maximize the number of jobs created for Federal prisoners and thus help to avoid disciplinary problems that accompany idleness among prison inmates.

This legislation does not involve any new spending. Rather, it instructs Federal Prison Industries [FPI], which employs Federal inmates to manufacture goods for sale to the Federal Government, to enter only labor intensive industries, so that it can create the maximum number of new jobs for Federal prisoners.

In 1988, Congress enacted legislation that required FPI to concentrate on manufacturing products that are labor intensive. But Congress did not provide any definition of a labor intensive industry. Since that time, FPI has taken the position that Congress in 1988 authorized it to enter even capital intensive industries—which, of course, in relative terms cannot create many jobs for prisoners.

To correct this misconception and to prevent further misunderstanding, the Prison Employment Act of 1990 uses three objective economic statistics, compiled by the Department of Commerce, to define industries in which FPI's market entry would be most likely to maximize job creation for Federal prisoners. An industry must have at least 15 production workers per million dollars of value added, at least 10 production workers per million dollars of shipments value, and no more than $18,000 in production wages per production worker. These three requirements will ensure that FPI focuses its activities on labor intensive industries in which it can use its resources to create the greatest number of new jobs for Federal prisoners.

In addition, the bill provides that FPI shall, when considering alternative labor intensive industries suitable for market entry or expansion, first enter or expand market share in the industry in which capital investment will create the largest number of jobs for prisoners. This provision will ensure fiscally responsible management of FPI's operations.

This bill parallels H.R. 5618, introduced last month by Congressmen RICHARD NEAL and JOHN EDWARD PORTER. I salute their leadership in the House on this issue, and I am pleased to propose to my colleagues in the Senate a similar bill for their consideration which I believe to be the key to maximizing job creation for Federal prisoners.

I ask for unanimous consent that the text of the bill be printed immediately after my remarks.

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

S. 3197

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. MAXIMIZING JOB CREATION FOR FEDERAL PRISONERS.

Chapter 307 of title 18, United States Code, is amended by adding the following:

"§ 4122A. Objectives of Federal Prison Industries

"(a) Notwithstanding any other provsion in this chapter, Federal Prison Industries' highest priority shall be to maximize the number of jobs created for the employment of Federal prisoners.

"(b) On or after July 1, 1990, Federal Prison Industries shall enter an industry only if private firms in such industry have at the four-digit Standard Industrial Classification Code level—

"(1) at least 15 production workers per million dollars of value added;

"(2) at least 10 production workers per million dollars of shipments value; and

"(3) no more than $18,000 in production wages per production worker, as measured in 1987, dollars.

"(c) Federal Prison industries shall, when considering alternative labor-intensive industries suitable for market entry or expansion, first enter or expand market share in the industry in which capital investment will create the largest number of jobs for Federal prisoners".

SEC. 2. ACCOUNTABILTY FOR USE OF PRISON INDUSTRY FUND.

Section 4126 of title 18, United States Code, is amended by adding the following:

"(g) Any expenditure or obligation of funds by Federal Prison Industries to enter any industry that is not labor-intensive, as defined in 18 U.S.C. § 4122A, shall be subject to 31 U.S.C. § 1341(a)(1).".

SEC. 3. REPORTING REQUIREMENTS ON JOB CREATION.

Section 4127 of title 18, United States Code, is amended to read as follows:

"(a) The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year.

"(b) Such report shall disclose, for each of Federal Prison Industries' lines of business, for the preceding fiscal year—

"(1) the net number of jobs created for Federal prisoners;

"(2) the labor intensity of the line of business, for Federal Prison Industries and for the private sector; and

"(3) an audited statement of operating results.".●

By Mr. SANFORD:

S. 3201. A bill to direct the Secretary of Transportation to permit the city of Fayetteville, NC, to allow vehicular traffic, other than buses, to use Hay Street; to the Committee on Commerce, Science, and Transportation.

VEHICULAR TRAFFIC ON HAY STREET IN FAYETTEVILLE, NC

● Mr. SANFORD. Mr. President, I rise today to propose a measure which will correct a severe traffic problem that has developed in Fayetteville, NC, as a result of the closing of Hay Street, a major road in downtown Fayetteville.

Under an agreement between the city of Fayetteville and the Department of Transportation, Hay Street was closed down to vehicular traffic in order to create a pedestrian mall in the heart of downtown, accessible only by buses. While the idea looked good on paper, the project not only has lacked the expected retail and commercial rewards, but has also resulted in an unanticipated traffic bottleneck in Fayetteville.

Local businesses which had hoped to thrive in the downtown area are instead suffering tremendously, due to a lack of interest among Fayetteville consumers who are interested in convenient, drivable locations and easily accessible parking. In addition, the loss of this major thoroughfare has caused a great amount of unnecessary headaches for Fayetteville citizens traveling to and fro in the city, by slowing traffic and forcing them to take longer, more roundabout routes.

Mr. President, I am proposing that the Secretary of Transportation permit Fayetteville to allow vehicular traffic, other than buses, to begin using Hay Street again. I also request that the Secretary does not require Fayetteville to pay any penalty for any past grant agreement with the Department of Transportation, as a result of the reopening of Hay Street.

In closing, I ask that you not fault Fayetteville for a plan gone awry, and give serious consideration to this proposal for the sake of reviving a dying downtown.●

## ADDITIONAL COSPONSORS

S. 15

At the request of Mr. CRANSTON, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 15, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 585

At the request of Mr. LAUTENBERG, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 585, a bill to implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, and for other purposes.

S. 1140

At the request of Mr. MITCHELL, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1140, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 2189

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2189, a bill to establish a grant program to provide health insurance information, counseling, and assistance to individuals eligible to receive benefits under title XVIII of the Social Security Act, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2733

At the request of Mr. BINGAMAN, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Tennessee [Mr. GORE], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 2733, a bill to establish an Inter-American Scientific Cooperation Program to increase the level of science and technology cooperation between the United States and Latin America.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2901

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 2925

At the request of Mr. DIXON, the names of the Senator from Kansas [Mr. DOLE], the Senator from Idaho [Mr. MCCLURE], the Senator from Indiana [Mr. COATS], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2980

At the request of Mr. HEINZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2980, a bill to amend the Internal Revenue Code of 1986 to modify the provisions permitting certain entities to elect a taxable year other than the required year.

S. 3002

At the request of Mr. MOYNIHAN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to permit coverage of residential drug treatment for pregnant women and certain family members under the Medicaid program, and for other purposes.

S. 3059

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 3059, a bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges.

S. 3069

At the request of Mr. JEFFORDS, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 3059, a bill to provide a method of locating private and Government research on environmental issues by geographic location.

S. 3148

At the request of Mr. DIXON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 3148, a bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant Memorandum of Understanding

[MOU] and to extend the 30-day congressional review period until the MOU is received.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. SASSER], the Senator from Kansas [Mr. DOLE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Delaware [Mr. ROTH], the Senator from Idaho [Mr. SYMMS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Illinois [Mr. SIMON], the Senator from Massachusetts [Mr. KERRY], the Senator from Missouri [Mr. BOND], the Senator from Hawaii [Mr. AKAKA], and the Senator from Minnesota [Mr. DURENBERGER], were added as cosponsors of Senate Joint Resolution 262, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 356

At the request of Mr. DOLE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 356, a joint resolution designating November 4 through 11, 1990, as "National Key Club Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. MITCHELL, his name was added as a cosponsor 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 374

At the request of Mr. PELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 374, a joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education.

SENATE JOINT RESOLUTION 375

At the request of Mr. BOSCHWITZ, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Washington [Mr. GORTON], the Senator from Washington [Mr. ADAMS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Iowa [Mr. GRASSLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Montana [Mr. BURNS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 375, a joint resolution to designate October 30, 1990, as "Refugee Day."

SENATE JOINT RESOLUTION 378

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 378, a joint resolution prohibiting the proposed sales to Saudi Arabia of certain defense articles and defense services, pursuant to section 36(b)(1) of the Arms Export Control Act.

SENATE RESOLUTION 338

At the request of Mr. SASSER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Resolution 338, a resolution expressing the sense of the Senate that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 census.

## AMENDMENTS SUBMITTED

### LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

### ARMSTRONG AMENDMENT NO. 2954

Mr. ARMSTRONG proposed an amendment to the bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 44, on line 8, change the period to a semicolon and add the following: "None of the funds contained in this Act may go to any entity receiving funding under this Act unless such entity certifies to the Secretary that it will not 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 by this subsection, except in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention. *Provided, however,* That such entity certifies to the Secretary that such notice shall 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 physican performing the abortion or an agent of the entity; or 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. *Provided further,* That this section 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.".

### SIMON AMENDMENT NO. 2955

Mr. SIMON proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 306. IMPACT AID.

Notwithstanding any other provision of law, in carrying out the provisions of section 7 of Public Law 81-874 (20 U.S.C. 241-1) (as amended) and section 16 of Public Law 81-815 (20 U.S.C. 646) (as amended), the Secretary of Education shall reduce or waive the administrative guideline of a 25 percent non-Federal share upon a showing of—

(1) financial hardship by the State or political subdivision thereof in the provision of; or

(2) a good faith effort by the State or political subdivision thereof to provide;

the non-Federal share for purposes related to the disaster for which Federal assistance is sought.

### HELMS AMENDMENT NOS. 2956 AND 2957

Mr. HELMS proposed two amendments to the bill H.R. 5257, supra, as follows:

AMENDMENT No. 2956

On page 17, line 15, strike out "$600,000,000" and all that follows through "That" on line 19, and insert in lieu thereof the following: "$159,000,000 is available for part A and part B of title XXVI of the Public Health Service Act: *Provided,* That".

AMENDMENT No. 2957

On page 18, end of line 2, insert "That the Secretary of Health and Human Services shall make available not less than $120,000,000 from amounts otherwise appropriated for programs relating to AIDS as follows:

"(1) $60,000,000 of such amount shall be made available to the National Institute of Child Health and Human Development for programs relating to the prevention of infant mortality and sudden infant death syndrome, child health research centers, and mental retardation in children; and

"(2) $60,000,000 of such amount shall be made available to the National Institute on Aging for programs relating to Alzheimer's disease:

*Provided further,*".

### CABLE TELEVISION CONSUMER PROTECTION ACT

### WIRTH (AND GORE) AMENDMENT NO. 2958

(Ordered to lie on the table.)

Mr. WIRTH (for himself and Mr. GORE) submitted an amendment intended to be proposed by them to the bill (S. 1880) to amend title VI of the Communications Act of 1934 to ensure

carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes; as follows:

On page 51, strike lines 1 and 2 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING MARKETING OF CERTAIN SATELLITE COMMUNICATIONS"

Starting on page 51, line 6, strike everything through line 10 on page 52 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING

"Sec. 640. (a) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to prohibit any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of nationally-distributed video prgramming. Entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal.

"(b)(1) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to require any integrated video programming vendor to make its nationally-distributed video programming available on similar price, terms, and conditions to all cable systems, cable operators, their agents, or their buying groups.

"(2) The Commission shall provide in the regulations prescribed pursuant to paragraph (1) that an integrated video programming vendor may or may continue to—

"(A) impose reasonable requirements for creditworthiness, marketing, delivery, and offering of service, and financial liability and stability (including a requirement that a buying group be legally and financially capable of ensuring the performance of the contract it negotiates);

"(B) establish different prices, terms and conditions that—

"(i) take into account differences in—

"(I) cost in the creation, sale, delivery, or transmission of its video programming; or

"(II) legitimate economic benefits (including, but not limited to, advertising and other promotional activities) received from different purchases;

"(ii) are established in good faith to meet equally favorable prices, terms, or conditions offered by a competitor; or

"(iii) are attributable to reasonable or legitimate business practices; and

"(C) grant bona fide discounts (including, but not limited to, discounts to take into account economies of scale, other cost savings, and legitimate economic benefits reasonably attributable to the number of subscribers served by different purchasers and discounts to encourage purchasers to carry a new video programming service)".

On page 52, line 11 immediately after "affiliate" insert ", or other multichannel video system operator".

On page 52, line 12 strike "or" and insert in lieu thereof: ";".

On page 52, line 15 strike the period and insert in lieu thereof: "; or coerce a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system.".

On page 52, line 16 immediately after "(d)" insert "(1)"

On page 52, line 19 strike "(1)" insert in lieu thereof "(A)"

On page 52, line 21 strike "(2)" and insert in lieu thereof "(B)"

On page 52, line 23 after the period, add a new paragraph (2), to read as follows:

"(2) In considering whether any exclusive contract significantly impedes competition, the Commission shall take into account, among other relevant factors:

"(A) whether such a contract, when taken together with other exclusive contracts for that programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition;

"(B) whether such a contract, because of the existence of other exclusive contracts for similar programming in a particular market, would significantly impede competition in that market; and

"(C) whether, if the service subject to the exclusive contract was previously offered on a non-exclusive basis, the change significantly impedes competition.".

On page 53, after line 7, add the following:

"(g)(1) The regulations prescribed under subsection (b) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990. The regulations prescribed under subsection (a) shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection Act of 1990.

"(2) No provision of subsections (a) and (b) shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(h) For purposes of this section—

"(1) the term 'integrated video programming vendor'—

"(A) means any person—

"(i) who licenses or otherwise makes available video programming for national distribution by any multichannel video system operator; and

"(ii)(I) who holds an attributable interest in a multichannel video system operator, or

"(II) in whom a multichannel video system operator or any person with an attributable interest in a multichannel video system operator holds an attributable interest;

"(B) includes satellite delivered programming networks and other programming networks and services;

"(C) does not include—

"(i) a network or service distributing video progamming intended for broadcast by a television station affiliated with a broadcasting network; and

"(ii) a broadcast television station;

"(2) the term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming; and

"(3) the terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

Add a new subsection (b) at the end of section 6, to read as follows:

(b) MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.—

(1) FINDINGS.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(2) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(A) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(B) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(C) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively.

(D) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1991, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for pur-

poses of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraph (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

## LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

### GRAHAM (AND OTHERS) AMENDMENT NO. 2959

Mr. GRAHAM (for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. MCCAIN, Mr. REID, Mr. WILSON, Mr. DECONCINI, Mr. WIRTH, Mr. BRYAN, Mr. SIMON, Mr. ADAMS, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. GRAMM) proposed an amendment to the bill H.R. 5257, supra; as follows:

On page 38, strike lines 1 through 7 and insert in lieu thereof the following:

Section 204(a)(1)(B) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking the period at the end thereof and inserting in its place the following: ", and funds appropriated for fiscal year 1991 under this section are reduced by $566,854,000.".

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking "$1,000,000,000" and inserting in its place "$2,000,000,000"; and

(2) by striking the period at the end thereof and inserting in its place the following: "and fiscal year 1991.".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following new paragraph:

"(5) For fiscal year 1992, the Secretary shall make allotments to states under paragraph (1) no later than December 15, 1991.".

An amount equal to 5 percent of amounts expended by a State for educational services under section 204(a)(1)(C) of the Act (or, if greater, $50,000 times the number of all years in which such expenditures are made) may be expended by the State educational agency for its related administrative costs; amounts available to a State for fiscal years after 1988 for public education and outreach to temporary resident aliens under section 204(c)(1)(D) of the Act may also be used for public education and outreach to eligible legalized aliens; and up to one percent of amounts provided to a State under section 204 of the Act in fiscal years after 1988 (or, if greater, $100,000 times the number of such years) may be used for payments under subparagraph (D) of section 204(c)(1), and up to an equal amount may be used for payments under subparagraph (e) of such section, in years after fiscal year 1988.

### METZENBAUM AMENDMENT NO. 2960

Mr. HARKIN (for Mr. METZENBAUM) proposed an amendment to the bill H.R. 5257, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . IMPACT AID.

Section 5(e)(1)(D) of Public Law 81-874 (as amended) (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991 as a result of families moving off base due to a landfill or health concern or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educational agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for fiscal year 1991.

### HARKIN AMENDMENT NO. 2961

Mr. HARKIN proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 16, line 24, change "$2,472,940,000" to "$2,474,940,000".

On page 40, line 6, change "$3,500,528,000" to "$3,501,278,000".

On page 40, line 19, after the word "claims" insert the following: : *Provided further*, That of the total amount provided, $47,352,000 shall be transferred to "Human Development Services" account for part B of title IV of the Act".

### DOLE AMENDMENT NO. 2962

Mr. SPECTER (for Mr. DOLE) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 52, line 25, insert after "deaf adults" the following: ": *Provided*, That, until October 1, 1991, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section".

### BRADLEY AMENDMENT NO. 2963

Mr. HARKIN (for Mr. BRADLEY) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 51, line 4, strike out "$1,684,499,000" and insert in lieu thereof "$1,685,247,000".

### BINGAMAN (AND OTHERS) AMENDMENT NO. 2964

Mr. HARKIN (for Mr. BINGAMAN) (for himself, Mr. KENNEDY, Mr. KERRY, and Mr. JEFFORDS) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 49, line 26, strike "$14,000,000" and insert in lieu thereof "$11,000,000." On page 51, line 4, strike "$1,684,499,000." On page 51, line 4, strike "$1,684,499,000" and insert in lieu thereof "$1,685,499,000." On page 51, delete the period at the end of line 24 and insert the following: "and provided further that of the amounts appropriated herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law.".

On page 61, line 19, strike "$139,726,000" and insert in lieu thereof "$141,726,000" and in line 25, delete the period and insert the following: "; and of which $2,000,000 shall be available, to remain available until expended, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, commission, or other entity whose function shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed

or elected officials nor State elected officials but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting."

## FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, FISCAL YEAR 1991

### LEAHY (AND KASTEN) AMENDMENT NO. 2965

Mr. LEAHY (for himself and Mr. KASTEN) proposed an amendment to the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 5, line 8, strike "$271,382,000" and insert in lieu thereof "$187,882,457";

On page 31, line 9, strike "$3,080,000,000" and insert in lieu thereof "$3,141,000,000";

On page 45, line 6, strike "$26,500,000" and restore the House amount of $35,000,000; and

On page 56, line 1, insert, in italic, "*further,*" after '*Provided*"; and restore the House language beginning with "That" through "purposes and" and on line 3.

On page 64, line 21, strike ": *Provided further*" and all that follows through "1961" on page 64, line 24.

### MITCHELL (AND OTHERS) AMENDMENT NO. 2966

Mr. MITCHELL (for himself, Mr. DANFORTH, Mr. BOREN, Mr. KERREY, Mr. HATFIELD, Mr. SIMON, and Mr. DODD) proposed an amendment which was subsequently modified, to the bill H.R. 5114, supra, as follows:

In the language proposed to be inserted by the amendment, strike out "activities" and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. . (a) ASSISTANCE.—(1) Not to exceed $20,000,000 of the funds appropriated by this Act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians, including the Cambodian non-Communist resistance, along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or fraction of the noncommunist resistance.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) REPORTING REQUIREMENT.—(1) The Administrator of the Agency for International Development shall conduct within 180 days of enactment of this act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "humanitarian assistance for Cambodian children".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "humanitarian assistance for Cambodian children" shall also be available to civilian victims of war.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons system, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

### KERREY AMENDMENT NO. 2967

Mr. KERREY proposed an amendment to the bill H.R. 5114, supra, as follows:

At the end of the amendment, add the following:

PROHIBITION ON FUNDS TO ADMINISTER OR ENFORCE CERTAIN TRADING WITH THE ENEMY ACT AUTHORITIES.

SEC. . Notwithstanding any other provision of law, no funds appropriated by any provision of law may be made available to administer or enforce the authorities of the Trading With the Enemy Act with respect to Cambodia which were in effect before the date of enactment of this Act.

### SIMON (AND KENNEDY) AMENDMENT NO. 2968

Mr. SIMON (for himself and Mr. KENNEDY) proposed an amendment to the bill H.R. 5114, supra, as follows:

On page 174, line 17, strike the period and insert in lieu thereof the following: ": *Provided,* That no funds under the headings "Economic Support Fund" and "Foreign Military Financing Program" may be obligated or expended until 30 days after such report is transmitted to the Congress.".

### KENNEDY AMENDMENT NO. 2969

Mr. KASTEN (for Mr. KENNEDY) proposed an amendment to the bill H.R. 5114, supra, as follows:

At the appropriate place in the bill, insert the following:

FAMINE ASSISTANCE TO THE ANGOLAN PEOPLE

SEC. . The Congress finds that—

(a) the looming famine in Angola is the world's leading humanitarian crisis, and puts at risk of starvation an estimated 1.9 million Angolans in the absence of effective international assistance;

(b) the majority of the potential famine victims reside in areas of conflict;

(c) the continuing civil war is the primary impediment to effective international famine relief efforts;

(d) the impact of famine on the Angolan civilian population is compounded by the massive effects of prolonged war and deprivation, including the loss in the course of the civil war of over 500,000 lives including 330,000 children, high malnutrition, and high civilian casualties due to land mines: Now, therefore, be it

SEC. . It is the sense of the Senate that—

(a) the United States and the rest of the international community should respond generously to the Angolan famine by providing immediate emergency assistance through appropriate international and private voluntary organizations to Angolan civilians on both sides of the Angolan conflict;

(b) the United States and the international community should strongly urge both sides of the Angolan conflict to cooperative in the famine relief effort, to facilitate the provision of emergency assistance under appropriate international auspices and to work to establish a lasting ceasefire and an end to the civil war;

(c) the efforts of the United Nations, the International Committee of the Red Cross and voluntary agencies to provide famine relief are to be commended and supported.

### CHAFEE (AND OTHERS) AMENDMENT NO. 2970

Mr. KASTEN (for Mr. CHAFEE, for himself, Mr. LEAHY, and Mr. KASTEN) proposed an amendment to the bill H.R. 5114, supra, as follows:

In section 533, "Environment and Global Warming," after subsection (d), insert the following new subsection:

"(e) Of the funds appropriated by this Act to carry out the provisions of section 23 of the Arms Export Control Act, not less than $15,000,000 shall be made available to coun-

tries in Africa for programs which support conservation and biological diversity."

Redesignate the following subsections accordingly.

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## HATCH AMENDMENT NO. 2971

Mr. KASTEN (for Mr. HATCH) proposed an amendment to the bill H.R. 5114, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ANTI-NARCOTICS RESOURCE REQUIREMENTS.

(a) The President shall undertake an analysis of the requirements necessary to bolster anti-narcotic efforts and assets of transshipment countries identified in the President's strategy.

(b) The President shall submit to the Congress, at the time of the submission of the President's budget request for fiscal year 1992, a report describing the requirements indicated by the analysis under subsection (a).

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## STEWART B. McKINNEY HOMELESS ASSISTANCE ACT AMENDMENTS

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## KENNEDY AMENDMENT NO. 2972

Mr. WIRTH (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 4789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

*TITLE —PROVISION OF COMPREHENSIVE SERVICES TO FAMILIES AND INDIVIDUALS WITH SPECIAL NEEDS*

*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 onsite 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 other public or private nonprofit agency or organization specializing in delivering housing or 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 predominantly consist 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 job 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 ceillings 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 nonprofit 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 in-*

formation 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. * * *

Each eligible * * * 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 award under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of this 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. 15. 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 subtitle 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, $100,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 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 Illness 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 nonprofit 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' has the same meaning given such term in section 602.

"(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) CONSIDERATION BY SECRETARY.—In carrying out the provisons 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), with public or private nonprofit 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 current-*

ly 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 receiving 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 or overpayments of 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, $100,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 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 Services 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 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 housng 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 substitle. 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 homeless 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 individuals, 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 of 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 operations.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $150,000,000 for each of the fiscal years 1991 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 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 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, $50,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 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 housing 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.

(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. 64. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section 53 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 PROGRAM.

(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 gate way 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 annually to the President and to the appropriate Committee of Congress a report containing a detailed statement of the actualities 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—54(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 $50,000,000 for each of the fiscal year 1991 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).*

*"(4) LENGTH OF DEMONSTRATION PROJECTS.—Each of the demonstration projects estimated 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 of this title, 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 amended 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 Committee 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).*

*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 holis-*

tic 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 coordi-

nate 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. 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.".

SEC. 4. TECHNICAL AMENDMENT FOR MEMBERSHIP ON THE INTERAGENCY COUNCIL ON THE HOMELESS.

Section 202(a)(15) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1131(a)(15)) is amended to read as follows:

"(15) The Secretary of Veterans Affairs, or the designee of the Secretary.".

SEC. 5. USE OF CERTAIN PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS.

(a) IN GENERAL—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 is amended to read as follows:

"SEC. 501. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDING AND REAL PROPERTY TO ASSIST THE HOMELESS.

"(a) IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, collect information about Federal public buildings and other Federal real properties (including fixtures) that are excess or surplus or are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall provide such information to the Secretary. No later than 30 days after collecting such information, the Secretary shall identify which of those buildings and properties are suitable for use to assist the homeless.

"(b) AVAILABILITY OF PROPERTY.—(1) The Secretary shall immediately notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a) of this section. No later than 30 days after receipt of such a notice, the Administrator, with respect to excess property, or the appropriate head of the landholding agency, with respect to underutilized or unutilized property, shall transmit to the Secretary the agency's response which shall include—

"(A) in the case of underutilized or unutilized property—

"(i) a statement of intention to declare the property excess to the agency's needs;

"(ii) a statement of intention to make the property available for use to assist the homeless; or

"(iii) a statement of the reasons the property cannot be declared excess property of the agency or made available for use to assist the homeless;

"(B) in the case of excess property—

"(i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or

"(ii) a statement of the other compelling Federal need for the property and, therefore, the property is not presently available for use to assist the homeless.

"(2) All surplus property determined suitable under subsection (a) shall be available for application for use to assist the homeless in accordance with the provisions of this section.

"(3) The Secretary shall maintain a written public record of—

"(A) the determinations of the Secretary and the reasons for such determinations under this subsection; and

"(B) the responses of landholding agencies to such determinations.

"(c) PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 30-day period provided for under subsection (b)(1), the Secretary shall publish in the Federal Register a list of all property reviewed by the Secretary, which shall include all suitable property that is available for application under subsection (b) for use to assist the homeless.

"(B) Each publication of property shall include a description and location of the property (including the address and zip code) and the current classification of such property.

"(C) The Secretary shall make available upon request all information regardless of format about all property reviewed and determined to be unsuitable, including the reasons such properties were determined unsuitable.

"(D) The Secretary shall publish separately, on an annual basis, all property determined to be suitable, but reported to be unavailable, and the reasons such properties were unavailable.

"(2) No later than 15 days after the last day of the 30-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the complete list to the Interagency Council on the Homeless. The Council shall immediately distribute to all State and regional homeless coordinators area relevant portions of the list.

"(3) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as necessary to ensure the widest possible dissemination of the information on such list.

"(4) The Secretary shall establish a toll-free number to provide the public with specific information about property on the list.

"(5) The Secretary shall make readily available to the public upon request all information regardless of format in the possession of the Department of Housing and Urban Development about the properties under this subsection, including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

"(6)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status of each property controlled by the agency, that—

"(i) was included in a list published by the Secretary under paragraph (1)(A) (i); and

"(ii) remains available for application for use as a facility to assist the homeless or has become available for application during the preceding year.

"(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year, and the current classification of such properties as excess, surplus, unutilized, or underutilized.

"(d) HOLDING PERIOD.—(1) Properties published as suitable and available for application shall not be available for any other purpose for a period of 45 days beginning on the date of such publication.

"(2) Once written notice of intent to apply for a property is received, within the 45-day period described under paragraph (1), for the utilization of any such property by representatives of the homeless, such property may not be made available for any other purpose, until the Secretary of Health and Human Services or other landholding agencies have completed action on the application.

"(3) Excess, surplus, unutilized and underutilized properties determined unsuitable may not be made available for any other purpose for 15 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless.

"(4) Written notice of intent to apply for a property may also be filed at any time after the 45-day period described under paragraph (1) has expired. In such case the application shall be approved and the property assigned to the Secretary of Health and Human Services for disposal for use to assist the homeless, only if the property remains available. If the property remains available, the use to assist the homeless shall be given priority consideration over competing disposal opportunities under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) and the provisions of subsection (f)(3) shall apply."

"(e) USE OF PROPERTY TO ASSIST THE HOMELESS.—(1) Representatives of the homeless may submit an application to the Secretary of Health and Human Services for any property that is suitable and available for application included in a list published under subsection (c)(1)(A)(i), for use to assist the homeless.

"(2) No later than 90 days after the submission of written notice of intent to apply for a property, an applicant shall submit a complete application to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the Administrator for surplus property and the head of the appropriate landholding agency for unutilized or underutilized property, grant reasonable extensions.

"(3) No later than 25 days after receipt of a completed application, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services all maintain a written record of all actions taken in response to an application.

"(4) The Secretary, the Administrator, and the heads of landholding agencies shall immediately take such actions as may be necessary to make property immediately available to representatives of the homeless whose applications are approved by the Secretary of Health and Human Services under this paragraph

"(f) MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.—(1) Subject to the provisions of this subsection, properties for which the Secretary of Health and Human Services has approved applications for homeless use shall be made immediately available to representatives of the homeless.

"(2) Unutilized or underutilized property shall be make immediately available by the appropriate landholding agency to the approved applicant by lease or permit, for a term of not less than 1 year, unless the applicant requests a shorter term.

*"(3)(A) In disposing of surplus property for deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority consideration to uses to assist the homeless under subsection (k)(5) of such section.*

*"(B) Surplus property shall be made immediately available to the Secretary of Health and Human Services upon request of assignment for immediate provision to the approved applicant in accordance with section 203(k)(5) of such Act, unless the Administrator of the Secretary of Health and Human Services determines that a competing request under section 203 of such Act of the property is so meritorious and compelling as to outweigh the needs of the homeless.*

*"(C) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (B), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisifed by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.*

*"(4) For properties made available by lease to representatives of the homeless prior to the date of enactment of the Stewart B. McKinney Homeless Assistance Amendments of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey by deed such property to the representative under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.*

*"(g) RECORDS.—The Secretary shall maintain a written public record of—*

*"(1) the reasons for determinations of the Secretary under this section; and*

*"(2) the responses of landholding agencies to those determinations.*

*"(h) DEFINITIONS.—For purposes of this section—*

*"(1) the term 'Administrator' means the Administrator of General Services;*

*"(2) the terms 'excess property' and 'surplus property' have the same meaning as such terms are defined under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472);*

*"(3) the term 'landholding agency' means a Federal department or agency with statutory authority to control real property including, with respect to excess and surplus real property, the Administrator of General Services;*

*"(4) the term 'representative of the homeless' means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and*

*"(5) the term 'Secretary' means the Secretary of Housing and Urban Development, except as otherwise provided.".*

*(b) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICE ACT OF 1949.—Section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) is amended by adding at the end thereof the following new paragraph:*

*"(5) The Administrator shall assign to the Secretary of Health and Human Services for disposal by lease or deed such surplus real property, incuding buildings and fixtures situated thereon, as is recommended by the Secretary of Health and Human Services as being needed for used to assist the homeless. Notwithstanding any other provision of this subsection, all assignments and transfers of real property under this paragraph shall be in accordance with section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).".*

*(c) UNUTILIZED AND UNDERUTILIZED PROPERTY.—For purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act) (42 U.S.C. 11411) (as amended by subsection (a) of this Act) the term "unutilized and underutilized property" shall have the same meaning as such term before the date of the enactment of this Act under such section 501.*

*(d) PROMULGATION OF REGULATIONS.—No later than 60 days after the date of the enactment of this Act, the Administrator of General Services, the Secretary of Health and Human Services, and the Secretary of Housing and Urban Development shall promulgate regulations implementing the provisions of this section.*

*SEC. 6. STUDY OF THE COUNTING OF THE HOMELESS FOR THE NATIONAL CENSUS.*

*The General Accounting Office shall conduct a study of the methodology and procedures used by the Bureau of the Census in counting the number of homeless persons for the decennial census conducted pursuant to title 13, United States Code, to determine the accuracy of such count, and report to the Congress.*

*SECTION 1. SHORT TITLE*

*This Act may be cited as the "Primary Pediatric Outreach and Care for Disadvantaged Children Act of 1990".*

*SEC. 2. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.*

*Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:*

*"SEC. 328. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.*

*"(a) DEFINITIONS.—As used in this section:*

*"(1) PRIMARY PEDIATRIC CARE.—The term 'primary pediatric care' means—*

*'(A) preventive care including anticipating guidance, appropriate early treatment, immunizations, and other services designed to promote health and prevent disease, which should include a comprehensive health examination that involves services identical to those required under early and periodic screening, diagnosis and treatment programs under sections 1902(a)(43) and 1905(a)(4)(B) of the Social Security Act;*

*"(B) acute illness care, including diagnosis and early treatment of illnesses in order to prevent complications or the development of chronic disorders;*

*"(C) evaluations conducted to detect physical abuse, sexual abuse, or neglect of children; and*

*"(D) continuing care of individuals suffering from certain chronic diseases of disabling conditions.*

*"(2) OUTREACH.—The term 'outreach' means—*

*"(A) the intensive identification of isolated and vulnerable children; and*

*"(B) the undertaking of comprehensive assessments and referrals for purposes of providing immediate direct care and access to health care systems.*

*"(b) AUTHORITY.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private organizations, agencies, and institutios, to pay part or all of the costs of establishing programs designed to provide high quality primary pediatric care to economically disadvantaged children under the age of 19 who, on the date of enactment of this section, do not have access to such care as a result of geographic, cultural, financial, and other barriers, for the purposes described in subsection (c), or for operating such programs, or both.*

*"(c) ELIGIBLE ACTIVITIES.—A recipient shall use funds available under this section for as many of the following as practicable—*

*"(1) child outpatient facilities or, where appropriate, mobile medical units, staffed by physicians, nurse practitioners, and other health care providers to provide primary care services;*

*"(2) an extensive followup system to ensure maximum consultative and referral visits for comprehensive health needs;*

*"(3) prenatal care;*

*"(4) substance abuse detection and preventive and therapeutic counseling;*

*"(5) evaluation and treatment services for behavioral and emotional disorders either directly or through referrals to appropriate specialists;*

*"(6) a health service program for children in foster care;*

*"(7) a program to provide medical services and community referrals to runaway and homeless youth;*

*"(8) a program to provide continuous, comprehensive care for children with special medical needs, particularly children with disabilities and chronic illness;*

*"(9) formal linkages with facilities providing necessary referral or ancillary services, including hospital outpatient and inpatient care, community health centers, educational institutions, Head Start programs, and social welfare and child abuse programs; and*

*"(10) methods of data collection (through the use of computerized systems to the extent feasible), including statistics concerning children and families and the specifics of the health care needs of such children and families which should enable the tracking of families and promote a continuum of health care.*

*"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1991, and such sums as are necessary for each succeeding fiscal year.".*

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## NICKLES (AND OTHERS) AMENDMENT NO. 2973

Mr. ARMSTRONG (for Mr. NICKLES, for himself, Mr. BOSCHWITZ, Mr. MCCONNELL, Mr. SYMMS, and Mr. ARMSTRONG) proposed an amendment to amendment No. 2972 proposed by Mr. KENNEDY to the bill H.R. 3789, supra, as follows:

At the end of the bill, add the following new subsection:

SEC. . TO PROVIDE FOR HOMELESS INDIVIDUALS TO WORK ON THEIR SHELTER.

Notwithstanding any other provision of law, the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes," approved March 3, 1931 (40 U.S.C. 276a(a)), commonly known as the Davis-Bacon Act, as well as the Service Contract Act of 1965 (41 U.S.C. 356), and any other similar provision of Federal law, shall not be required with respect to any homeless individual employed in connection with

a project, which is or will be his or her primary nighttime residence and which is constructed, improved, or otherwise assisted under the provision of this Act or any amendment made by this Act.

## VACCINE AND IMMUNIZATION AMENDMENTS

### KENNEDY AMENDMENT NO. 2974

Mr. WIRTH (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

(a) EXTENSION OF GENERAL PROGRAM.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

(b) DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) SECTION 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.",

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) ADDITIONAL INFORMATION", and

(5) in subsection (e), by striking "(e)" before "(e) SCHEDULE".

(b) SECTION 2112.—

(1) SUSPENSION OF PROCEEDINGS.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C)."

(2) NOTICE.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) NOTICE.—If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) SECTION 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) SECTION 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) SECTION 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action, (2) an election is made under section 2121(b) to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) SECTION 2121.—

(1) LIMITATION ON ACTIONS.—Section 2121(a) of the Public Health Service Act (42 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the ad-

ministration of a vaccine after the effective date of this part".

(2) WITHDRAWAL OF PETITION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) WITHDRAWAL OF PETITION.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) SECTION 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—

(A) by striking "of title XXI" and inserting "part A or B of subtitle 2 of title XXI", and

(B) by striking "such title XXI" and inserting "both such parts", and

(2) by adding at the end the following:

"(c) REVIEW UNDER SECTION 2112(f).—If the review authorized by section 2112(f) is held invalid because the judgment of the United States Claims Court being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Claims Court. Such panel shall not include the judge who participated in such judgment.".

(h) EFFECTIVE DATE.—The amendments made by subsections (f)(1) and (g) shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) shall take effect as of September 30, 1990.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 6601(r) of the Omnibus Reconciliation Act of 1989 (Public Law 101-239) is amended—

(1) in paragraph (1), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992",

(2) in paragraph (2), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992", and

(3) in paragraph (3), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992".

(j) RECORDS AND REPORTS.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by striking out "or (j)" and inserting in lieu thereof "or (k)".

(k) COMMISSIONED CORPS.—

(1) APPOINTMENT OF COMMISSIONED OFFICER.—Section 206(a) of the Public Health Service Act (42 U.S.C. 207(a)) is amended by inserting after the first sentence the following new sentence: "During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.".

(2) CONFORMING AMENDMENT.—Section 201(a) of title 37, United States Code, is amended by inserting "Assistant Secretary for Health." in the fourth column of the table corresponding with pay grade O-10.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the first day of the month immediately following the month in which this Act was enacted.

SEC. 6. TECHNICAL AMENDMENTS IN CERTAIN PROGRAMS PROVIDING SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) FORMULA FOR EMERGENCY RELIEF GRANTS.—Section 2603(a)(3) of the Public Health Service Act, as added by section 101(3) of Public Law 101-381, is amended to read as follows:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—

"(i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) SET-ASIDE REGARDING CATEGORICAL GRANTS TO CERTAIN ENTITIES FOR EARLY INTERVENTION SERVICES.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) by striking "(c) Certain Allocations" and all that follows through "After determining" and inserting the following:

"(c) Certain Allocations by Secretary.—

"(1) DISCRETIONARY GRANTS TO CERTAIN STATES.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) GRANTS TO CERTAIN POLITICAL SUBDIVISIONS.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) MISCELLANEOUS AMENDMENT.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".

## COMPREHENSIVE MEDICAL DEVICE IMPROVEMENT ACT

### KENNEDY AMENDMENT NO. 2975

Mr. WIRTH (for Mr. KENNEDY) proposed an amendment to the bill (S. 3006) to amend the Federal Food,

Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Medical Device Improvement Act of 1990".

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 3. REVIEW OF SAFETY AND EFFECTIVENESS INFORMATION.

(a) REVIEW.—Section 510(k) (21 U.S.C. 360(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraph:

"(2)(A) The requirements of subparagraph (B) shall apply to a person who submits a notification in accordance with paragraph (1) for a device that the person claims is substantially equivalent to a marketed device—

"(i) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this paragraph;

"(ii) that is classified as a class III device in accordance with subsections (b) through (d) of section 513; and

"(iii) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(B) A person described in subparagraph (A) shall—

"(i) prior to the submission of a notification in accordance with paragraph (1), conduct a reasonable search for, and review of, published and unpublished data available to the person concerning the safety and effectiveness of the marketed device and the device for which the notification is submitted, including all adverse safety and effectiveness data concerning the devices, except for data that has been submitted to the Secretary in accordance with section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(ii) include in the notification a certification that the search and review was conducted and a citation to and summary of the data resulting from the search.

"(C) The Secretary may require the submission of any data described in the summary required by paragraph (B)(ii).".

SEC. 4. CLASSIFICATION OF DEVICES.

(a) CLASSIFICATION.—Section 513 (21 U.S.C. 360c) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)(ii), by striking "or to establish a performance standard" and inserting "or to establish an additional control or controls, as described in subparagraph (B)(ii),";

(B) by amending subparagraph (B) to read as follows:

"(B) CLASS II, ADDITIONAL CONTROLS.—A device—

"(i) that cannot be classified as a class I device because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) for which there is sufficient information to establish an additional control or controls to provide the assurance, including—

"(I) promulgating a performance standard;

"(II) developing and disseminating a guideline, including a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k);

"(III) requiring the use of postmarket surveillance as appropriate in accordance with section 522; and

"(IV) making a recommendation or taking other appropriate action considered necessary by the Secretary to provide reasonable assurance of the safety and effectiveness of the device; and

"(iii) for which it is necessary to establish an additional control or controls to provide reasonable assurance of the safety and effectiveness of the device;

except that for a device that is purported or represented to be for a use in supporting or sustaining human life, sufficient information must exist for the Secretary to identify and describe the provision of a performance standard to provide such assurance."; and

(C) in subparagraph (C)(i)(II), by striking "establishment of a performance standard" and inserting "establishment of an additional control, as described in subparagraph (B)(ii),"; and

(2) in subsection (f)—

(A) in paragraph (1), by inserting "the Secretary by order determines that" after "unless"; and

(B) in paragraph (2), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a".

(b) CONFORMING AMENDMENT.—Section 513(h)(1) is amended by inserting after "510" the following: "(except for a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k))".

SEC. 5. REVISION OF CLASSIFICATION FOR CERTAIN CLASS III DEVICES.

(a) REVISION OF CLASSIFICATION.—Section 513 (21 U.S.C. 360c) (as amended by section 4(b) of this Act) is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Revision of Classification

"(h)(1) The requirements established by order in accordance with paragraph (2) shall apply with respect to a device—

"(A) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this subsection;

"(B) that is classified as a class III device; and

"(C) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(2) Not later than 36 months after the date of enactment of this subsection, the Secretary—

"(A) shall by order require manufacturers of devices described in paragraph (1) to submit to the Secretary a citation to and summary of all published and unpublished data reasonably available to the manufacturer concerning the safety and effectiveness of the device, including any adverse safety and effectiveness data, except for information that has been submitted to the Secretary under section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(B) may require a manufacturer to submit any data described in the summary.

"(3) After the issuance of an order in accordance with paragraph (2)(A), but not later than 24 months after the issuance of the order, the Secretary shall publish in the Federal Register for each device covered by the order a notice of proposed rulemaking proposing to change the classification of the device to class II or to class I or to continue the classification of the device in class III.

"(4) In determining whether to revise the classification of a device or to continue the classification of the device in class III, the Secretary shall apply the criteria in section 513(a) to the information available when the device was initially classified and any new information made available since initial classification.

"(5) After considering any comments submitted in response to the notice of proposed rulemaking, the Secretary shall issue a final regulation changing the classification of the device or continuing the classification in class III. The Secretary shall publish in the Federal Register findings on the matters referred to in paragraph (4), a discussion of the comments received in response to the notice of the proposed rulemaking, and the response of the Secretary to the comments. The Secretary shall publish the final regulation not earlier than 90 days, and not later than 12 months, after the date of publication of the notice of proposed rulemaking relating to the regulation.

"(6) A regulation issued in accordance with paragraph (5) is subject to judicial review in accordance with section 517.

"(7) Not later than 12 months after the effective date of any regulation issued in accordance with paragraph (5), the Secretary shall establish a schedule for the issuance of a regulation in accordance with section 515(b) requiring submission of a premarket approval application for each device that has been continued in class III.".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended—

(1) in subsection (a), by striking "The Secretary may" and inserting "If the Secretary determines that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of a class II device, the Secretary shall";

(2) by striking subsections (b) through (f);

(3) by redesignating subsection (g) as subsection (b);

(4) in subsection (b) (as redesignated), by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1)(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a device.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a device shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate and necessary to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate;

"(iii) invite interested persons to submit to the Secretary within 30 days of the publication of the notice, requests for changes in the classification of the device based on new information relevant to the classification; and

"(iv) invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to provide reasonable assurance of the safety and effectiveness of a device.

"(D) The Secretary shall provide for a comment period of no fewer than 60 days.

"(2) If, after publication of a notice in accordance with paragraph (1), the Secretary receives a request for a change in the classification of the device, the Secretary shall, within 60 days of the publication of the notice, consult with a classification panel described in the second sentence of section 513(e).".

(b) CONFORMING AMENDMENTS.—

(1) Section 514(b) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (3)(A), by striking "paragraph (2)" and inserting "paragraph (1)"; and

(B) in paragraph (4)(A), by striking "paragraphs (2) and (3)(B)" and inserting "paragraphs (1), (2), and (3)(B)".

(2) Section 517(a)(3) (21 U.S.C. 360g(a)(3)) is amended by striking "514(b)(2) or".

(3) Section 520(i) (21 U.S.C. 360j(i)) is amended by striking "514(g)(5)(B)" and inserting "514(b)(5)(B)".

SEC. 7. SUSPENSION OF APPROVAL OF APPLICATION.

Section 515(e) (21 U.S.C. 360e(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may by order suspend the approval of an application approved under this section if the Secretary determines that there is a reasonable probability that the continued distribution of a device under the application would cause serious, adverse health consequences or death.

"(B) Not less than 10 days prior to the issuance of a suspension order under subparagraph (A), the Secretary shall issue a notice that the Secretary shall provide the holder of the application for the device with an opportunity for an informal hearing to determine whether to issue the order.

"(C) Not more than 10 days after the hearing described in subparagraph (B), the Secretary shall issue a suspension order or determine that the order should not be issued.

"(D) Not more than 20 days after the issuance of the suspension order, the Secretary shall issue a notice initiating the process of withdrawal of approval of the application, as described in paragraphs (1) and (2). If the Secretary does not issue the notice within the specified timeframe, the suspension order shall be deemed to be vacated.".

SEC. 8. JUDICIAL REVIEW.

Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) by striking "or" at the end of paragraph (6); and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) the issuance of a regulation under section 513(h), or

"(9) the issuance of an order under section 513(f)(1) or an order effectuating the classification required under 520(l)(1)(D).".

SEC. 9. EMERGENCY RECALL AUTHORITY.

Section 518 (21 U.S.C. 360h) is amended by adding at the end the following new subsection:

"Emergency Recall Authority

"(e)(1) If the Secretary finds that there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, the Secretary shall issue a recall order. The order shall require the appropriate party or parties (including the manufacturers, importers, distributors, or retailers of the device) to immediately cease any distribution of the device and, thereafter, recall the device from commercial distribution.

"(2)(A) The order issued under paragraph (1) shall include recall of devices from hospitals and other health care institutions, unless the Secretary determines that the risk of recalling the device from the facilities presents a greater health risk than not recalling the device from use.

"(B) For devices subject to an order issued under paragraph (1), and in lieu of including individuals within the recall order, the Secretary shall order a notification under subsection (a) regarding the risks associated with the continued use of the device to individuals or, when appropriate, the health professionals who prescribed the device for the use of the individuals.

"(3) Not later than 10 days after the issuance of a recall order, the Secretary shall provide the party or parties to whom the order is directed with the opportunity for an informal hearing to determine whether the order shall be affirmed or vacated.

"(4) If, after providing an opportunity for an informal hearing, the Secretary determines that the recall order was properly issued, the order shall remain in effect. The Secretary shall specify a timetable in which the device recall will occur, and shall require periodic reports to the Secretary describing the progress of the recall effort.

"(5) If, after providing an opportunity for an informal hearing, the Secretary determines that inadequate grounds exist to support the order issued under paragraph (1), the Secretary shall vacate the order.

"(6) A party to whom the recall order is issued shall—

"(i) remedy the causes that resulted in the issuance of the order;

"(ii) complete the recall in accordance with the order; and

"(iii) submit a report to the Secretary demonstrating compliance with the order.

"(7) After fulfilling the requirements of paragraph (6), a party to whom the recall order is issued may petition the Secretary to vacate the order. The petition shall state the basis for vacating the order.

"(8) The Secretary shall respond to the petition described in paragraph (7) not later than 30 days after the receipt of the petition. If the Secretary finds that the party to whom the recall order was issued has fulfilled the requirements of paragraph (6) and that the device may be distributed in interstate commerce, the Secretary shall vacate the order.

"(9) The remedy provided by this subsection shall be in addition to those provided by subsections (a), (b), and (c).".

SEC. 10. USER REPORTS.

(a) REQUIREMENT.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)(3), by inserting before the semicolon the following: "and shall require distributors who submit the reports to submit copies of the reports to the manufacturer of the device for which the report was made";

(2) by adding at the end the following new subsections:

"Inclusion of Distributors

"(c) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall amend the regulations promulgated under this section to require distributors of medical devices to establish and maintain records and make reports under this section. In amending the regulations, the Secretary may exempt classes of distributors from whom reports are not necessary for the protection of the public health.

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that the manufacturer, importer, or distributor—

"(1) did not file any report; or

"(2) did file a certain number of the reports.

"User Reports

"(e)(1) As used in this subsection:

"(A) The terms 'facility' and 'medical device user facility' mean a hospital, nursing home, or ambulatory surgical facility.

"(B) The terms 'serious illness' and 'serious injury' mean illness or injury, respectively, that is unanticipated and—

"(i) is life threatening;

"(ii) results in permanent impairment of a body function or permanent damage to a body structure; or

"(iii) necessitates immediate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

"(2) If a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 15 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(3) If a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has caused or contributed to a serious illness or serious injury to a patient of the facility, the facility shall, as soon as practicable, but not later than 15 working days after becoming aware of the information, report the information to the manufacturer of the device. If the facility is unable to determine the identity of the manufacturer of the device, the facility shall send a report of the information to the Secretary.

"(4) For purposes of paragraphs (2) and (3), a medical device user facility shall be treated as having received or otherwise become aware of information with respect to a medical device of the facility when appropriate medical personnel employed by or otherwise affiliated with the facility receive or otherwise become aware of information with respect to the device in the course of the duties of the individual.

"(5)(A) Except as provided in subparagraph (B), the Secretary may not disclose the identity of a facility that makes a report in accordance with paragraph (2) or (3)—

"(i) except in connection with an action brought to enforce section 301(q);

"(ii) except in connection with a communication to a manufacturer of a device that is the subject of a report in accordance with paragraph (2) or (3); or

"(iii) unless required to be disclosed in accordance with subsection (a).

"(B) This paragraph shall not authorize the Secretary to withhold the identity of a facility making a report in accordance with paragraph (2), or any information in the report, from duly authorized committees and subcommittees of Congress.

"(6)(A) No report made in accordance with paragraph (2) or (3) by a person described in subparagraph (B) shall be admitted into evidence in any civil action involving private parties unless the person had knowledge of the falsity of the information contained in the report.

"(B) As used in subparagraph (A), the term 'person' means—

"(i) a medical device user facility;

"(ii) one of the appropriate medical personnel employed by or otherwise affiliated with the facility; or

"(iii) a physician who is not required to make a report in accordance with paragraph (2) or (3).

"(7) The obligation of a medical device user facility to make a report in accordance with paragraph (2) or (3) shall not affect the obligation of the manufacturer of the device who receives the information to file a report concerning the device as required under subsection (a).

"User Education

"(f)(1) During the 1-year period beginning on the date of enactment of this subsection, the Secretary may award grants to eligible entities to establish public education programs for hospitals, ambulatory surgical facilities, and nursing homes concerning the user reporting requirements set forth in subsection (e).

"(2) In awarding grants in accordance with paragraph (1), the Secretary shall give priority to entities to submit proposals that demonstrate—

"(A) a need for user education among hospitals, ambulatory surgical facilities, and nursing homes regarding a generic category of medical device; and

"(B) the ability to adequately perform the proposed educational program.

"(3) In order to receive a grant in accordance with paragraph (1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require. At a minimum, the application shall contain—

"(A) a description of the proposed public education program;

"(B) the qualifications and experience of the entity to carry out the program; and

"(C) the need for user education among persons to be served by the entity regarding a generic category of medical device.

"(4) The Secretary shall by regulation specify the qualifications for an entity to receive a grant in accordance with paragraph (1).

"(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 1991 through 1993.".

(b) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), not later than 12 months after the date of enactment of this Act. In promulgating the regulations, the Secretary shall minimize the administrative burdens on medical device user facilities consistent with the need to assure adequate information.

(c) REPORT TO CONGRESS.—Not later than 36 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains an evaluation of the requirements of section 519(e) of the Federal Food, Drug, and Cosmetic Act. In preparing the report, the Secretary shall consult with individuals and organizations with an interest in health care and consumer issues. At a minimum, the report shall contain—

(1) an evaluation of the safety benefits of the requirements;

(2) an evaluation of the burdens placed on the Food and Drug Administration and on medical device user facilities by the requirements;

(3) an evaluation of the cost-effectiveness of the requirements; and

(4) recommendations for legislative reform.

(d) EFFECTIVE DATE.—Section 519(e) of the Federal Food, Drug, and Cosmetic Act shall become effective on the earlier of—

(1) the effective date of regulations promulgated in accordance with subsection (b); or

(2) the date that is 12 months after the date of enactment of this Act.

SEC. 11. REPORTS OF REMOVALS AND CORRECTIVE ACTIONS.

Section 519 (21 U.S.C. 360i) (as amended by section 10 of this Act) is further amended by adding at the end the following new subsection:

"Reports of Removals and Corrective Actions

"(g)(1)(A) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or corrective action of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or corrective action was undertaken to—

"(i) eliminate a significant risk to health caused by the device; or

"(ii) remedy a violation of this Act caused by the device which may present a risk to health.

"(B) A manufacturer, importer, or distributor of a device who undertakes a corrective action or removal of a device that is not required to be reported under subparagraph (A) shall keep a record of the corrective action or removal.

"(2) No report of the corrective action or removal of a device may be required under paragraph (1) if a report of the corrective action or removal is otherwise required under this Act, or the corrective action or removal was initiated at the request of the Secretary, and a report has been submitted to the agency.

"(3) For purposes of paragraphs (1) and (2), the terms 'corrective action' and 'removal' do not include routine servicing.".

SEC. 12. USE OF PREMARKET APPROVAL DATA.

Section 520 (21 U.S.C. 360j) is amended—

(1) in subsection (c)—

(A) by striking "under section 513 from class III to class II" and inserting "from class III to class II or class I"; and

(B) by inserting "except in accordance with subsection (h) and" after "reclassified from class III to class II,"; and

(2) in subsection (h)—

(A) in paragraph (3), by striking "Any" and inserting "Except as provided in paragraph (4), any"; and

(B) by adding at the end the following new paragraph:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies, but excluding descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available 1 year after the original application for the fourth device of a kind has been approved by the Secretary, for use by the Secretary in approving devices, or determining whether a product development protocol has been completed, under section 515, establishing a performance standard under section 514, and reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2). The Secretary shall deem devices that incorporate the same technologies, have the same principles of operation, and are intended for the same use or uses to be within a kind of device.

"(B) The Secretary, contemporaneously with the approval of the fourth device of a kind, shall publish a notice in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in premarket approval applications for the devices will be available to the Secretary for use, as described in subparagraph (A). For each device described in subparagraph (D)(i)(I), the Secretary shall publish a notice in the Federal Register setting forth the date, which shall be not earlier than 1 year after the date of notice, that data identified in subparagraph (A) shall be available for the use of the Secretary.

"(C) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for—

"(i) approving devices, or determining whether a product development protocol has been completed, under section 515;

"(ii) establishing a performance standard under section 514; and

"(iii) reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2).

"(D)(i) This paragraph shall become effective—

"(I) upon the date of the enactment of the paragraph, for devices approved under section 515, where four devices of a kind were approved on or before December 31, 1987; and

"(II) 24 months after the date of the enactment of the paragraph, for devices not included within the scope of subclause (I) that are subject to a premarket approval requirement under section 515.

"(ii) For each device described in subparagraph (D)(i)(II) for which the original application for a fourth device of a kind is approved by the Secretary before the 24-month delayed effective date described in subparagraph (D)(i)(II), the 24-month delayed effective date shall be deemed to be the approval date for the fourth device of a kind.

"(E) The approval date of a device, for purposes of this paragraph, shall be the date of the letter of the Secretary to the applicant approving a device under section

515, and permitting the applicant to commercially distribute the device.".

SEC. 13. TRACEABILITY.

Section 520(j) (21 U.S.C. 360j(j)) is amended to read as follows:

"Traceability Requirements

"(j)(1) The Secretary shall, not later than 1 year after the date of enactment of this subsection, determine which devices should be subject to a requirement of labeling, or coding, or identification by any other means, that is necessary to ensure that the device may be traced from the place of manufacture of the device or initial distribution to the ultimate user of the device, from among devices that—

"(A) are permanent implants;

"(B) are purported or represented to be for use in supporting or sustaining human life; or

"(C) present a potential unreasonable risk of illness or injury.

"(2) Not later than 2 years after the date of enactment of this subsection, the Secretary shall by regulation require the manufacturers, importers, and distributors of the devices that are described in paragraph (1) to establish the means by which the devices will be traced to the ultimate user.".

SEC. 14. REVISION OF CLASSIFICATION FOR DEVICES REGULATED AS NEW DRUGS OR ANTIBIOTIC DRUGS.

(a) IN GENERAL.—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) in subparagraph (A) (as designated by paragraph (1), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall publish a notice in the Federal Register with respect to devices that are subject to regulation pursuant to this subsection. The notice shall state whether each device shall remain in class III or be reviewed for classification into class I or II. The notice shall also require the manufacturer of a device that the Secretary intends to classify into class I or II to submit to the Secretary a description of and citation to any adverse safety and effectiveness information not submitted under section 519(a) of this Act and section 803 of title 21, Code of Federal Regulations. The Secretary may require a manufacturer to submit the adverse safety and effectiveness information for which a description and citation were submitted to the Secretary.

"(ii) After the issuance of the notice under clause (i), and following consultation with appropriate advisory panels in accordance with subsections (b) through (d) of section 513, but before the expiration of the 1-year period beginning on the date of enactment of this subparagraph, the Secretary shall publish a proposed regulation in the Federal Register classifying each device into class I or II, or providing that each device shall remain in class III. The data furnished by manufacturers in accordance with clause (i), in combination with the advice and recommendation of appropriate advisory panels shall, for purposes of this Act, serve as a basis for satisfying the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii), and shall serve as a basis for the proposed regulation required under this subparagraph.

"(iii) Following a review of comments received on the proposed regulation issued in accordance with clause (ii), and before the expiration of the 1-year period referred to in clause (ii), the Secretary shall promulgate a final regulation prescribing the classification of all devices regulated under this subsection on the date of enactment of this subparagraph. No regulation issued under this subparagraph requiring a device to remain in class III or classifying the device as class I or II may take effect before the expiration of 90 days from the date of the publication of the regulation in the Federal Register.

"(iv) The Secretary may by notice in the Federal Register extend the 1-year period prescribed by clauses (ii) and (iii) for a device for an additional period not to exceed 1 year.

"(v) Notwithstanding any other provision of this subsection, the Secretary shall not retain any daily wear nonhydrophilic plastic contact lens in class III unless the Secretary finds that it meets the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii). The finding, and the grounds for the finding, shall be published in the Federal Register. If during the 1-year period beginning on the date of enactment of this subparagraph, the Secretary has not made the finding and issued the notice required by this clause, the Secretary shall issue an order placing the lens in class II.

"(vi) Actions taken under this subparagraph shall not interfere with any pending reclassification action. Any device for which a reclassification petition was pending on January 1, 1989, shall not be included in the list published under clause (i).".

(b) CONFORMING AMENDMENT.—Section 520(l)(1) is amended—

(1) by inserting ", on the initiative of the Secretary or" after "unless the Secretary"; and

(2) by striking "paragraph (2)" and inserting "paragraph (2)(A),".

SEC. 15. SUBSTANTIAL EQUIVALENCE.

Section 520 (21 U.S.C. 360j) is amended by adding at the end the following new subsection:

"Substantial Equivalence

"(m)(1) For purposes of determinations of substantial equivalence under this subchapter—

"(A) The term 'different technological characteristics' means, with respect to a device being compared to a predicate device, that there is a significant change in the materials, design, energy source, or other features of the device from those of the predicate device.

"(B) The term 'substantially equivalent' or 'substantial equivalence' means, with respect to a device being compared to a predicate device, that the device has the same intended use as the predicate device and—

"(i) has the same technological features as the predicate device; or

"(ii) has different technological features and the evidence submitted that the device is substantially equivalent to the predicate device contains information, including clinical data, if required, that demonstrates that the device is as safe and effective as a marketed device.

"(2) A device may not be found to be substantially equivalent to a predicate device that has been removed from the market at the initiative of the Secretary or that has been determined to be misbranded or adulterated by a judicial order.

"(3) The Secretary shall promulgate regulations under which a manufacturer seeking a determination of substantial equivalence may be required to prepare a summary of any clinical data required (including information respecting any adverse effects of the device on health) if the Secretary determines that clinical data must be submitted in accordance with paragraph (1)(B)(ii), and establishing a standard format for the summary. The Secretary shall make the summary available to the public within 30 days of the issuance of a determination of substantial equivalence.".

SEC. 16. HUMANITARIAN DEVICE EXEMPTION.

Section 520 (21 U.S.C. 360j) (as amended by section 15 of this Act) is further amended by adding at the end the following new subsection:

"Humanitarian Devices

"(n)(1) It is the purpose of this subsection to encourage the discovery of devices intended to benefit patients in the treatment or diagnosis of rare diseases or conditions, to the extent consistent with the protection of the public health and safety and with ethical standards.

"(2) As used in this subsection, the term 'rare disease or condition' means any disease or condition that affects fewer than 8,000 persons in the United States. Determinations under the previous sentence with respect to any device shall be made on the basis of the facts and circumstances as of the date of submission of an application under paragraph (3).

"(3) Not later than 8 months after the date of enactment of this subsection, the Secretary shall promulgate regulations prescribing procedures and conditions under which persons may on application be granted an exemption for devices from the effectiveness requirements of section 502, 514, 515, 516, 519, or 706, or subsection (e) or (f) of this section, to permit the use of the devices by physicians in the treatment of patients afflicted by a rare disease or condition.

"(4) In promulgating regulations under paragraph (3), the Secretary may prescribe procedures and conditions under which an exemption may be granted for a device if—

"(A) the device is likely to provide a significant benefit to a patient in the treatment or diagnosis of a disease or condition, or a significant benefit to the patient in quality of life;

"(B) the device is used—

"(i) in the treatment or diagnosis of a rare disease or condition and cannot reasonably be expected to be available absent the exemption; or

"(ii) the patient population affected by the disease or condition is not sufficient to conduct clinical trials of the effectiveness of the device; and

"(C) the Secretary determines that the probable benefit to health from the use of the device outweighs the risk of injury or illness from the use and the probable risks and benefits of currently available devices or alternative forms of treatment.

"(5) Devices granted an exemption under this subsection shall only be used—

"(A) in facilities that have established, in accordance with regulations of the Secretary, a local institutional review committee to supervise clinical testing of devices in the facilities; and

"(B) if, prior to the use of a device, an institutional review committee approves the use in the treatment or diagnosis of a specific rare disease or condition.".

SEC. 17. POSTMARKET SURVEILLANCE.

The Act is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) IN GENERAL.—

"(1) REQUIRED SURVEILLANCE.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that—

"(A) is a permanent implant the failure of which may cause serious, adverse health consequences or death;

"(B) is intended for use in supporting or sustaining human life; or

"(C) presents potential for serious risk to human health.

"(2) DISCRETIONARY SURVEILLANCE.—The Secretary may require a manufacturer to conduct postmarket surveillance for a device if the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) REGULATIONS.—The Secretary shall issue regulations implementing the requirements of this section not later than 1 year after the date of enactment of this section.

"(c) SURVEILLANCE PERIOD.—The Secretary may determine the period of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health or to evaluate the safety or effectiveness of the device. In no event may a surveillance period be imposed in accordance with this section without a termination date.

"(d) CONTRACTS.—

"(1) IN GENERAL.—The manufacturer of a device for which postmarket surveillance is required in accordance with subsection (a) shall contract with a qualified academic medical center, or a representative number of qualified academic medical centers in representative locations, to provide for any monitoring of clinical experience that may be required in accordance with this section.

"(2) LACK OF QUALIFIED ACADEMIC MEDICAL CENTER.—If no academic medical center has the qualifications and experience to conduct adequate monitoring of clinical experience in accordance with this section, a manufacturer shall contract with a qualified medical center or with a representative number of qualified medical centers in representative locations to provide the monitoring.

"(3) NUMBER AND IDENTITY.—The manufacturer shall determine, and obtain the approval of the Secretary regarding, the number and identity of the center or centers that will perform surveillance in accordance with this section and the manner of surveillance.

"(e) APPLICATION.—This section shall apply only to devices that are first distributed in interstate commerce after the date of enactment of this section.".

SEC. 18. ESTABLISHMENT OF THE OFFICE OF INTERNATIONAL RELATIONS.

Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary may enter into agreements with foreign governments, which agreements specify that devices of either country that are manufactured in accordance with rules and regulations for device manufacture under this Act are suitable for commercial distribution.

"(2) In entering into the agreements described in paragraph (1), the Secretary shall encourage the mutual recognition of—

"(A) good manufacturing practice regulations promulgated under section 520(f)(1)(A); and

"(B) other rules, regulations, and testing protocols as the Secretary determines to be appropriate.

"(3) The Secretary shall establish an Office of International Relations that shall plan and initiate programs for the recognition of devices in accordance with paragraph (1).

"(4) The Secretary may issue regulations to carry out this subsection.

"(5) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the activities of the Office of International Relations.".

SEC. 19. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended—

(1) in subsection (g)(1), by striking "; but does not include devices or their components, parts, or accessories"; and

(2) in the language following paragraph (3) of subsection (h), by striking "any of its principal" and inserting "its primary".

SEC. 20. REVIEW OF MARKET APPLICATIONS FOR ARTICLES COMPRISING COMBINATIONS OF DRUGS, DEVICES, AND BIOLOGICS.

Section 503 (21 U.S.C. 353) is amended—

(1) by striking the section heading and inserting the following:

"EXEMPTIONS AND CONSIDERATION FOR CERTAIN DRUGS, DEVICES, AND BIOLOGICAL PRODUCTS";

and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall designate a component of the Food and Drug Administration to regulate products that constitute a combination of a drug, device, or biological product. The Secretary shall determine the primary mode of action of the combination product. If the Secretary determines that the primary mode of action is that of—

"(A) a drug (other than a biological product), the persons charged with premarket review of drugs shall have primary jurisdiction;

"(B) a device, the persons charged with premarket review of devices shall have primary jurisdiction; or

"(C) a biological product, the persons charged with premarket review of biological products shall have primary jurisdiction.

"(2) Nothing in this subsection shall prevent the Secretary from using any agency resources of the Food and Drug Administration necessary to ensure adequate review of the safety, effectiveness, or substantial equivalence of an article.

"(3) The Secretary shall promulgate regulations to implement market approval procedures in accordance with paragraphs (1) and (2) not later than 1 year after the date of enactment of this subsection.

"(4) As used in this subsection:

"(A) The term 'biological product' has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

"(B) The term 'market clearance' includes—

"(i) approval of an application under section 505, 507, 515, or 520(g);

"(ii) a finding of substantial equivalence under this subchapter; and

"(iii) approval of a product or establishment license under subsection (a) or (d) of section 351 of the Public Health Service Act (42 U.S.C. 262).".

## INOUYE AMENDMENT NO. 2976

Mr. WIRTH (for Mr. INOUYE) proposed an amendment to amendment No. 2975 proposed by Mr. WIRTH (for Mr. KENNEDY) to the bill S. 3006, supra, as follows:

At the end of the amendment add the following:

SECTION 1. AWARDING OF GRANT TO GEORGE WASHINGTON UNIVERSITY.

(a) AUTHORITY.—There are authorized to be appropriated $50,000,000 to enable the Secretary of Health and Human Services to award a grant for the construction or renovation of a medical facility at the George Washington University to be utilized as a National Emergency Care Center.

(b) NON-FEDERAL CONTRIBUTIONS.—The Secretary of Health and Human Services shall not make a grant under subsection (a) unless the intended recipient of the grant provides assurance satisfactory to such Secretary that such recipient will make available (directly or through donations from public or private entities) non-Federal contributions equal to the amount of the grant provided under such subsection.

## ORPHAN DRUG AMENDMENTS

## HATCH (AND OTHERS) AMENDMENT NO. 2977

Mr. ARMSTRONG (for Mr. HATCH, for himself, Mr. DODD, and Mr. LAUTENBERG) proposed an amendment to the bill (H.R. 4638) to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes, as follows:

On page 4, line 12, strike out "July 16, 1990." and insert in lieu thereof "the date of the enactment of the Orphan Drug Amendments of 1990.".

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. WIRTH. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on Friday, October 12, 1990, at 9:30 a.m., in order to consider reconciliation legislation pursuant to the fiscal year 1991 budget resolution.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WIRTH. 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, Friday, October 12, 1990, at 10 a.m., to conduct a markup of a reconciliation package, and at 2 p.m. to conduct a hearing on the nomination of Mary Shannon Brunette, to be an Assistant Secretary of Housing and Urban Development.

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

COMMITTEE ON FINANCE

Mr. WIRTH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 12, 1990, at 2 p.m. to consider the budget reconciliation package.

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

## ADDITIONAL STATEMENTS

### PATRIOTISM AT ECKERD'S

● Mr. GRAHAM. I rise today to commend the patriotism of American companies that are supporting miltiary reservists who are on active duty in the Persian Gulf.

In our region of the country, that patriotism is exemplified by the Jack Eckerd Corp., based in Clearwater, FL.

Mr. President, since the summer, America's attention has been focused on Saddam Hussein's invasion in the Middle East and the effort to restore fiscal sanity at home.

During this busy time, we must not overlook the sacrifices of corporate America in support of American reservists. When companies support the men and women of the military Reserves, their action is much more than a patriotic gesture.

For many families, it means peace of mind for the brave reservists sent halfway around the world to augment our military mission. At home, it means mortgages and tuition will be paid. It means families can put food on the table while breadwinners are gone.

This corporate commitment was brought home to me on September 22, when I joined thousands of volunteers cleaning up our coastline. I helped clean up Tampa Bay that day.

In the Tampa community, like many other coastal areas across the country, many of the cleanup volunteers came from the military. During the cleanup, I met a Marine Reserve officer named Moises Suarez of Tampa.

Mr. Suarez works for the Jack Eckerd Corp., and he told me how much it meant for him that his company offered to maintain his salary if he was called up for duty.

On August 22, the day President Bush activated the Reserves, Eckerd Chairman Steward Turley announced that the company would make up the differential in pay between an associate's military pay and his or her Eckerd salary while on active duty.

The Jack Eckerd Corp. is not alone in supporting our reservists. A survey by the Reserve Officers Association of the United States revealed that some Fortune 500 companies are supporting employees on Reserve duty.

Mr. President, I call attention to the leadership of the Jack Eckerd Corp. as a model for other companies, and challenge them to meet the Eckerd standard.

We salute the dedication of our reservists at home and abroad. Reservists personify America's preparedness and strong defense. And, we salute their employers such as the Jack Eckerd Corp. that stand by reservists when they are called to duty.●

### TRIBUTE TO THE FIVE FALLEN FIREFIGHTERS OF ILLINOIS DURING 1989

● Mr. DIXON. Mr. President, in observance of National Fire Prevention Week, I rise today to pay tribute to the courage and the bravery of five fallen firefighters from my State of Illinois.

Each year, more than 2.4 million fires occur in the United States, killing nearly 6,000 people, injuring 100,000 more and causing an average of $10.4 billion in property losses. The great destructive power of fire is obvious from these figures—yet, there are career and volunteer men and women around the United States risking their lives every single day to fight and control these disasters.

Of these firefighters, I honor five Illinois men who gave their lives in the line of duty during 1989. Kelvin L. Anderson of Chicago, Frank A. Cornell of Wood River, Douglas P. Maicach of South Holland, John P. Meisch of Aurora, and Joseph L. Samec of Countryside, all made the ultimate sacrifice in the protection of their communities.

As a member of the Congressional Fire Services Caucus, I am especially sensitive to the needs and dangers facing our firefighters. To their families and colleagues, I extend my heartfelt thanks for their heroic efforts to protect their communities. Their contributions must not be forgotten.●

### KENTUCKY S&L INDUSTRY REMAINS STRONG

● Mr. FORD. Mr. President, on Wednesday of this week the Congress finally received an estimate from the administration of the costs required to continue the cleanup of the savings and loan industry for fiscal year 1991—a staggering $117 billion. Whether this amount is borrowed or appropriated, or funded in whole or in part, it represents a tremendous burden for this country that is a direct result of the failed policies of recent years.

Congress has several difficult decisions ahead with respect to the cost and operation of the cleanup, as well as several larger issues relating to the future of the savings and loan industry. But I think we must also remember—and all Americans must be reminded—that the causes of this situation are complex, and the solutions are even more difficult to understand and successfully implement.

When we now think of the S&L industry, we think of symbols and we tend to stereotype any individual or institution affilated with the industry. But we must remember that the S&L crisis was essentially a regional one, although the pain and the suffering is being felt nationwide.

The S&L's in my State are a prime example of the unfairness of the situation. They have not strayed from their traditional mission of providing homeowership opportunities for many Kentuckians, they have remained strong, and they will remain strong into the future. One reason is that since 1973 every Kentucky institutions has been required to possess a Federal charter.

Mr. President, figures recently released which cover the period from June 30, 1989, through June 30, 1990, indicate that while the thrifts in my State are quite healthy, they have been directly affected—just as the entire industry has been affected nationwide—by the actions of certain individuals in a particular region of the country. Total income for thrift institutions increased during this period in only five States, and a 32.8-percent loss in income for the thrifts in my States was the eighth best ranking in the country.

But that is the bad news. The remainder of the story is good news, and I congratulate the savings and loan institutions in Kentucky for their perseverance during these times. Kentucky was among only six States whose thrifts experienced an increase in assets during the past year. Kentucky thrifts were one of only six States to have an increase in loan volume during this period. And they have continued to maintain a very healthy capital ratio—6.42 percent of tangible capital, the eighth best rating in the country.

Mr. President, there is a lesson in these numbers, I believe, and it should not be missed as we debate the future of this industry. Those institutions, and indeed those States, which did not stray from their mission and which were managed in a proper manner, continue to remain healthy and play an important role in providing, home ownership opportunities. As we consider any future proposals, we should remember not to penalize those who have followed the rules and continue to play a beneficial role for our economy.

Once again, I congratulate the savings and loan industry in Kentucky. I believe that we can learn from them as an example, and we must adequately consider their current situation when contemplating any future action.●

## VISIT OF UKRAINIAN OPPOSITION LEADER MYKHAILO HORYN TO WASHINGTON

● Mr. DECONCINI. Mr. President, I recently had the opportunity to meet with Mykhailo Horyn, a leading member of the opposition in the Ukrainian Parliament, Chairman of the Secretariat of the Popular Movement of Ukraine [Rukh], and a former political prisoner whose plight had often been raised by the Helsinki Commission, which I chair, and by many of our colleagues in the Senate. During our discussion, Mr. Horyn described the dramatic changes occurring in Ukraine today—changes which will have a profound impact on the future of the entire Soviet Union. Mr. Horyn, who stands in the forefront of democratic changes in the Ukraine and who echoes the growing sentiment for Ukrainian independence, rejects a Soviet federation in favor of horizontal ties between the republics, thus eliminating the need for a center. He envisions an independent, neutral, and democratic Ukraine which guarantees equal rights to all minorities. Mr. Horyn, and the democratic opposition that he represents, favors taking an evolutionary and parliamentary path to achieve an independent Ukraine.

In view of the important developments occurring in the Ukraine today and their implications on our own foreign policy, I ask that the full text of an October 2 Christian Science Monitor article by Linda Feldmann be printed at this point in the RECORD. Ms. Feldmann presents the issues facing the Ukraine clearly and concisely.

The article follows:

### TESTING GORBACHEV'S PATIENCE

(By Linda Feldmann)

Leon Trotsky once said there could be no Russia without the Ukraine. Today, Alexander Solzhenitsyn is calling for creation of a Great Russian state made up of the three Soviet Slavic republics—Russia, Byelorussia, and the Ukraine.

Rubbish, says Mykhailo Horyn, who has been saying this his whole life to such suggestions.

The slight, bushy-haired Ukrainian's mission to establish an independent Ukraine has cost him a total of 12 years in prison camps. Most recently, that mission brought him to Washington for meetings at the White House, State Department, Treasury Department, AFL-CIO, and with constitutional lawyers.

Back home, as the Ukrainian movement for full independence gains support, Mr. Horyn's mission increasingly could mean Soviet President Mikhail Gorbachev's worst nationalist nightmare. The Ukraine is the second-largest Soviet republic, with 52 million people, and is crucial to the geographical and economic integrity of the Soviet Union.

In a sense, President Gorbachev brought this upon himself. In 1987, under his policy of liberalization, Horyn was released from prison. Now Horyn is nearing the top of the Ukraine's pro-independence popular movement. Rukh, which controls 147 of 450 seats in the Ukrainian parliament. Currently in charge of Rukh's day-to-day political direction, Horyn is expected to be elected chairman of the movement at its congress this month.

That would itself be a sign of the times, Rukh's current chairman, poet Ivan Drach, was until recently a member of the Communist Party—a point that helped make him an acceptable compromise choice for leader a year ago when Rukh was formed. But that fact "doesn't go down well now in this radicalizing situation," says Adrian Karatnycky, author of a forthcoming book on Soviet nationalities, "The Hidden Nations."

"In six months, Horyn will be forming a new government" in the Ukraine, Mr. Karatnycky predicts. Such statements invite the comparisons to Lech Walesa that have become increasingly common. On first impression, the soft-spoken Horyn doesn't seem like the larger-than-life Polish activist, but in a Monitor interview he displayed the kind of absolute conviction that has won him many supporters—even in the more Russified eastern Ukraine.

#### MAJORITY FAVORS SECESSION

One of Rukh's biggest challenges is to unify a republic that is divided between the western region, where Ukrainian language and culture dominate, and the larger eastern area, where one hears much more Russian than Ukrainian, at least in the cities.

According to Horyn, of the Ukraine's 52 million people, 11 million are Russian and 5½ million Russian-speaking. Other figures put the ethnic breakdown of the republic at closer to 40 percent non-Ukrainian. Regardless, Horyn dismisses the notion that Ukrainians who don't know their native language or traditions lack the intensity needed to fuel a drive for independence.

"We felt for a long time that national consciousness was dictated by language, but we have realized this is not so," says Horyn, who is from the western Ukrainian city of Lvov.

"I came across this phenomenon speaking in very large factories in Kiev. There I met with the view that we shouldn't rush with this process of 'Ukrainianization,' of bringing in the Ukrainian language. This was already attempted in our history, with Russification. The workers said, 'Let's not repeat the same experience with Ukrainianization.'

"But on the question of creating a national state," Horyn continues, "the workers said, 'We all support you on this.' "

Horyn also cites a July opinion poll of Kiev residents, conducted by the research arm of Lvov's Rukh-controlled government, that shows 57 percent support Ukrainian secession. But, say some Ukrainian-American activists, it is likely that many of these people favor secession largely because they want to escape the collapsing Soviet economy.

Rukh has staged several events this year designed to heighten Ukrainian national awareness and unity. In January, it organized a "human chain" of up to 500,000 people stretching from Lvov and Ivano-Frankovsk to Kiev. This summer Ukrainian youths participated in a month-long "culturological walk" to villages in eastern Ukraine to hold meetings, bonfires, and rallies designed to inform people about Rukh and Ukrainian history and traditions.

In early August, a half million people (half from western Ukraine) gathered in Zaporozhye to celebrate the 500th anniversary of the Ukrainian-Cossack state—a kind of "Ukrainian Woodstock," one observer called it. Horyn calls it "a revelation." A one-day general strike, centered in Kiev, was scheduled to take place Oct. 1 to protest a new, Gorbachev-proposed union treaty for all the Soviet states.

"I had thought that national revival would take 10 to 15 years," he says. "Apparently, it will take only 10 months."

Overall, Rukh's priority is the economy. Regardless of the republican parliament's recent declaration of Ukrainian sovereignty and adoption of a law on economic independence, the Ukrainian economy remains tightly woven into the Soviet economy.

At this point, the main aim is to preserve the Ukraine's existing economic connections with the other republics of the Soviet Union, while bypassing the central control mechanisms, says Horyn. The Ukraine has sent delegations to the republics to work out bilateral agreements on economic cooperation.

"For now, our economy will be oriented eastward; but we will eventually reorient toward the West and try to enter the 'common European home,' " says Horyn, using one of Gorbachev's stock phrases.

Critics of Rukh worry that the movement, run by freed dissidents and intellectuals who by definition lack experience in governing, is almost dangerously naive in its hard push for complete independence.

In a meeting with Treasury officials here, Horyn says he encountered a preference there for maintaining the "unitary state" of the USSR to serve as a stabilizing factor in Europe and the world. But at the White House, he says, "there was a certain understanding of what the Ukrainians want."

#### CASE FOR INDEPENDENCE

Horyn rejects the idea that, in the eyes of the U.S. government the Ukraine has a weaker legal case for independence than the Baltic republics, whose 1940 annexation was never recognized by the US. He argues that the Ukraine is actually in a stronger position than Lithuania, Estonia and Latvia: Ukraine has its own seat in the United Nations and the Baltic states do not.

Never mind the fact that gaining separate seats in the UN for the Ukraine and Byelorussia was a maneuver by Stalin that had nothing to do with recognizing Ukrainian independence, Horyn says. The fact remains that the U.S. by going along with Stalin recognized the Ukraine's separateness as a nation.

Rukh now hopes to make something out of that UN seat, a move that would challenge Gorbachev at his own game of boosting the UN's image and importance. Horyn says the Ukraine wants to replace the Moscow-appointed Ukrainian ambassador and send its own envoy—"someone who will represent the interests of the Ukraine and not those of the empire."

So far, that hasn't happened.●

## THE ANTIDRUG APPLE CORPS

● Mr. DECONCINI. Mr. President, during the week of October 20 to October 28 communities all across our Nation will celebrate "National Red Ribbon Week for a Drug-Free America." It is an opportunity for Americans throughout this land to stand up with a powerful message that drug trafficking and drug abuse will not be tolerated.

The red ribbon campaign was started in 1985 after the tragic death of

Drug Enforcement Administration agent, Enrique Camarena. Agent Camarena, who was in Mexico investigating the Caro Quintero drug organization, was kidnapped off the streets of Guadalajara, brutally tortured and killed. At the memorial service DEA agents and other law enforcement officers wore red ribbons as a symbol of their promise to continue efforts to stop the flow of drugs into the United States. The week of October 20-28 is a time when this Nation's citizens can continue that commitment and join forces for a drug-free America.

Mr. President, I would like to take this opportunity to bring to the attention of my colleagues a new and innovative program in Arizona that is committed year-round to helping our young people reject illegal drugs. The Antidrug APPLE Corps began exactly 1 year ago, in October 1989, when Maricopa County Attorney Richard Romley spearheaded an effort to prevent money earmarked for Arizona arts organizations from being taken away and used for drug enforcement. Mr. Romley made a very convincing argument to Arizona State legislators that the criminal element should not be allowed to take away arts programs which bring so much creativity and vitality to our communities. Instead, an idea was born that called for arts organizations to establish programs with an antidrug theme and take them into our communities and our schools.

The program brings together a highly unusual coalition of artists, private enterprise, prosecutors, law enforcement, and educators [APPLE]. This exceptional partnership takes a very creative approach—that presenting an antidrug message through the arts, specifically through plays, art work, music, and stories, can be a very powerful tool in helping our students say "no" to drugs.

This year the Antidrug APPLE Corps is awarding $20,000 in funding to support new arts programs with an antidrug message for use in Arizona schools. The funds, which are being made available by the Maricopa County attorney's office, come from assets seized by law enforcement officers from drug dealers and therefore allowed by Federal law to be used to fight the drug war. The five projects chosen are:

Arts Genesis, Inc.: Arts Genesis, with San Ignacio Yaqui Council, Pascua Yaqui Tribe Social Services Department, and La Frontera, will work on a program focused on creativity, choice-making, self-esteem and positive peer support as the core of a substance abuse prevention model for teenagers.

Childsplay, Inc.: Childsplay, together with Camelback Behavioral Health Services, is focusing on equipping elementary age schoolchildren and their parents with the knowledge and skills necessary to make informed choices regarding drug use, not just parroted responses.

String Sounds: String Sounds, with assistance from the Substance Abuse Department of the city of Phoenix and the DARE [Drug Abuse Resistance Education] Program, is working on presentation of an original story in play form.

Tucson Symphony: The Tucson Symphony will research and develop a musical program supporting BABES [Beginnning Alcohol and Addictions Basic Education Studies].

Very Special Arts Arizona: Very Special Arts Arizona, with the Westcenter Treatment Center and The Third Street Kids, is working on a multi-element program that would help teachers present substance abuse prevention courses of study. These courses would enable teachers to help students develop a strong self-image to counter negative peer pressure. The project will also offer a drama focusing on a family with a drug problem.

I believe, like President Bush, that the war on drugs will ultimately be won neighborhood by neighborhood, block by block, family by family. I believe it will also be won through innovative programs like the Antidrug APPLE Corps which is harnessing some of the best minds from the arts, education, business, and law enforcement in a concerted and creative effort to convince our children that, when it comes to drugs, the best word in the English language is clearly and unequivocally "No."●

## ARMENIAN ASSEMBLY HONORS SENATOR DOLE

● Mr. D'AMATO. Mr. President, on September 29, I had the honor to participate in a dinner in New York City sponsored by the Armenian Assembly—one of the largest Armenian-American groups—to honor Senate Republican Leader BOB DOLE.

As one of the speakers at the dinner noted, there was good news and bad news that night. The good news was that the assembly, and more generally the Armenian-American community, was honoring BOB DOLE, one of the leading political figures of our Nation, and a special friend to that important community.

The bad news was that, just because Senator DOLE happens to be a central figure in the decisionmaking process here in Washington, he could not be at the dinner himself, since he was closeted through the long hours of that weekend in the budget summit and related negotiations.

Obviously, all of us at the dinner were disappointed that Senator DOLE could not be there. But we all recognized that one reason BOB DOLE is someone who truly deserves to be honored is because of his dedication to meeting his responsibility and doing the people's work.

And even in his absence, it was obvious to see, and hear, and feel the enormous admiration, respect, and affection felt by the Armenian-American community for BOB DOLE.

So many fine tributes were paid to Senator DOLE that evening that I could not put all of them into the RECORD. But I would like to include the text of the keynote tribute, given by a very prominent Armenian-American, Dr. Gregory H. Adamian, the president of Bentley College, of Waltham, MA.

The address speaks for itself, and in so doing speaks volumes about BOB DOLE and about his unique contributions to the causes of Armenian-Americans. I hope all of my colleagues will take a few moments to read Dr. Adamian's speech. They will see reflected in it the BOB DOLE that we, too, admire and respect and call our friend.

The speech follows:

ARMENIAN ASSEMBLY, PLAZA HOTEL, NEW YORK CITY, SEPTEMBER 29, 1990, SPEECH BY DR. GREGORY H. ADAMIAN, BENTLEY COLLEGE PRESIDENT

Mr. Hovnanian, Chairman of the Board of the Assembly, Levon Ter-Petrossian, President of Armenia, our distinguished honoree in absentia, Senator Robert Dole, Senator D'Amato, Senator Pressler, head table guests, members and supporters of the Armenian Assembly, fellow Armenians and friends.

All of us attend dinners and banquets regularly for a variety of worthwhile and noble causes, but my friends, today is a very special and auspicious occasion even though the Senator cannot be with us. We gather tonight to pay tribute to an unusual man—a man who wears the mantle of minority leader of that august body, the United States Senate, which has produced some of the greatest political leaders of our nation in the ranks of which our guest certainly belongs.

This man we honor, Robert Dole, is no ordinary Senator representing his home state of Kansas. The word some people use to refer to legislators in Washington—politician—is not an adequate or proper designation for Robert Dole. On the contrary, he stands strong, resolute, a pillar of unqualified integrity, deeply committed to the political process, to truth and justice, to the people of these great United States and to the preservation of the values that make America the envy of the world. Ladies and gentlemen, we call this rare individual a statesman extraordinary.

Senator Dole's record of service on the local, state and national level is a long and distinguished one. He began that service in the Second World War, as so many men and women of our generation did. In the waning days of the war he was severely wounded, and spent years recovering. Many have observed, and Senator Dole himself admits, that this traumatic ordeal prepared him as few others could have for the rigors of life, and instilled in him the unflagging determination that has characterized his public career.

Bob Dole received his undergraduate and law degree from Washburn University in Kansas. He went to Washington as a con-

gressman in 1960 and was an early supporter of civil rights legislation. After moving to the Senate in 1968, Bob Dole became known as a skillful and pragmatic legislator who won the admiration of members of both parties. He has served as majority leader of the Senate and is currently minority leader. He has been a candidate for vice president and a candidate for the nation's highest office.

Senator Dole's voting record reflects his own personal philosophy of the role of government that avoids a rigid ideological position on any set of issues. While he is generally considered a conservative, he has supported several important initiatives in keeping with his notion that "conservatism can be compassionate." He has consistently advocated assistance to the deserving poor, and funding of programs to aid the physically handicapped. His has also been a voice for tax equity and compromise in the budget battles that have become so common on Capitol Hill in recent years. His talent and leadership, in fact, demand his presence tonight in Washington as the joint budget commission seeks to forge a spending and tax plan for the fiscal year that begins on Monday. It is fair to say that Senator Robert Dole is one of our nation's most distinguished political leaders, and will continue to be so for years to come.

In 1983, consistent with his record for compassion, he established a foundation dedicated to promoting economic independence for people with disabilities, The Dole Foundation for Employment of People with disabilities. Another example of the rare qualities of this man. As you know, the net proceeds from the banquet are being shared equally by the Dole Foundation and the Armenian Assembly Relief Fund, two notably worthy organizations.

His initial contact with Armenians took place after sustaining that traumatic injury in World War II. Dr. Hampar Kelikian was instrumental in his recovery through extraordinary skill and at the same time informed the young soldier of the trials and tribulations of the Armenian people. He was so deeply touched by Dr. Kelikian's caring and compassion that he developed a curiosity and sensitivity to the plight of Armenians. After the earthquake of December 7, 1988 struck, the greatest tragedy to befall the Armenian people since the Genocide of 1915, he visited Armenia with his wife, Secretary of Labor Elizabeth Dole and a US delegation. He saw for himself the ravages and the damage that had in effect destroyed one-third of Armenia, the motherland of Dr. Kelekian, who had made such a profound impression upon him.

Senator Dole, because of the high esteem in which he is held by Republicans and Democrats alike, took the lead in persuading his colleagues of the urgency of the situation and the need for America's financial assistance. Ten million dollars was voted for organizations in the United States to render aid to the Armenian people following this horrendous calamity. In time, we hope that even additional support will be forthcoming.

How ironic that this tiny island of Christianity, the remains of a once proud empire, surrounded by Moslem Azerbaijan, Turkey and Iran, and doormat of rival empires for centuries, should once again face a crisis of intolerable proportions. In its 2,500 years of turbulent existence, while the Byzantines, the Cilicians, the Mongols and the Phoencians, their adversaries and contemporaries faded into oblivion—the Armenian people struggled, endured and never surrendered their faith. And my friends, they will survive even this latest calamity with the continued aid from Armenians in the diaspora, as well as from nations around the world.

The stalwart Senator from Kansas has acted as Armenia's gadfly in prodding the administration about the Nagorno Karabagh territorial dispute and the violation of the rights of Armenians in Karabagh, an autonomous enclave within Azerbaijan that was historically part of Armenia. As we all know full well, Soviet Armenia's lack of international standing does not enable it to denounces effectively the violations of its citizens' rights, especially in the midst of a holy war so reminiscent of the past. The blockade by Azerbaijan is crippling an already devastated economy in Armenia. The Soviet army, ostensibly in Azerbaijan and Armenia to prevent violence is, in fact, for political reasons apparently taking the side of Azerbaijan rather than protecting the rights of Armenians. Senator Dole and his colleagues have raised these issues with the administration. With the Soviet Empire in the throes of dissolution, open talk of democracy and freedom, as well as the rush to a free market economy, events that just a few years ago were unthinkable much less national aspirations, have created a faint glimmer of hope that justice will triumph even though Armenia is, as usual on the side of right but without might. Small in territory and numbers, but overwhelming in spirit and determination, Armenia's greatest challenge is to rebuild its economy in the face of the Moslem threat and Moscow's apparent indifference.

And finally, ladies and gentlemen, we honor Senator Robert Dole tonight because of the courage and tenacity he displayed in the Senate as the champion of joint resolution 212 designating April 24 as National Day of Remembrance of the 75th Anniversary of the Armenian Genocide. Unfortunately, this resolution failed in a very close vote. However, Senator Dole's persistence, integrity, passion for justice and the acknowledgement of truth and history flooded the Senate Chamber like a burst of light. But too many closed their eyes.

His powerful eloquence and forceful logic clearly described what we as Armenian/Americans have been trying to convince the world to acknowledge for so many years. I have had the privilege of speaking on the subject of the Genocide on countless occasions. Today however, I would prefer to quote Senator Dole as he stood before his colleagues and spoke with such passion and conviction on this subject which is a gnawing part of every person of Armenian origin, because each of us somewhere had family or ancestors that experienced the pre-meditated murder of our nation.

He said on the Senate floor—and I quote: "There should be no negative repercussions since this resolution in no way criticizes the Turkish Republic or the current government, nor suggests any culpability on the part of the people of modern day Turkey for what happened so many years ago. Some suggested that if this resolution was adopted it would lead to great turmoil between the United States and Turkey. This is not the intent of the resolution. I certainly have a high regard for Turkey and I understand their importance as a NATO ally." This, I might add, has been recently illustrated by Turkey's support of the United States and most of the world in its stand against Iraqi aggression against Kuwait.

The bottom line, he said, is that the resolution is not pro-Armenia. It is certainly not anti-Turkey. It is a resolution that reminds us all of the incredible human suffering that Genocide brings and by reminding us helps insure that this kind of tragedy should never be allowed to happen again.

This is a simple question of what is right or wrong, not who has the most influence, who has the most lobbyists, who has the most money. No one disputes that there was a genocide in Nazi Germany. But no one makes a claim that such a genocide means that the present day German Government or its people are responsible. We decided there was a Genocide in Germany even before its last potential victims were liberated. We decided that there was a genocide in Cambodia even as the genocide was taking place. And it is high time we acknowledge a genocide which occurred in the Ottoman Empire before the fact of its occurrence is lost to history. The overwhelming weight of documentary evidence of this period supports the fact that there was a genocide even though the term was not used in 1915-23. It was coined in 1946.

In spite of the tremendous lobbying against this resolution by some of the Senate leadership and the US State and Defense Departments—some corporations and some governments who should know better, and I would be embarrassed to identify them in public. Senator Dole stood his ground while others flip-flopped—originally sponsoring the resolution and then when the pressure built—surrendering their integrity for expediency. The saying that politics makes strange bedfellows was never more appropriate. My friends, the unwillingness to cave in when issues of principal and truth are involved is what distinguishes a statesman from a politician.

We understand, but it is unfortunate, that the Senator was unable to be at his tribute and to see and feel this magnificent display of warmth and gratitude. We in the Armenian/American community are privileged to call Robert Dole a statesman and our friend, our "paregham." Thank you.●

## TRIBUTE TO DR. GRACE R. CAVANAGH

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Dr. Grace Cavanagh, who will be honored by the Special Citizens Futures Unlimited, Inc. for her outstanding work as an administrator in the education of the handicapped.

On November 1, 1990, Dr. Cavanagh, principal of the Bronx Comprehensive Program for Autistic Children, will be honored at a testimonial dinner, at which time it will be announced that the agency is naming a residence for autistic adults in her honor.

Dr. Cavanagh has devoted her entire professional life to education. Her first teaching job was at P.S. 47, the junior high school for deaf students. After 5 years at P.S. 47, she spent 9 years as a guidance counselor before going into administration at the Board of Education. She left to start the highly regarded P.S. 176 for autistic children in the Bronx.

The education of our Nation's children is one of the most vital issues of our time. Dr. Grace Cavanagh's efforts on behalf of the handicapped are both commendable and inspiring. Her dedi-

cation and commitment to the students at P.S. 176 should serve as a shining example to all of those in the field of education.●

## EVENTS ON THE TEMPLE MOUNT

● Mr. MOYNIHAN. Mr. President, violence and death have once again shattered the peace of Jerusalem. Since Israel reunited Jerusalem in 1967 it has compiled a distinguished record of protecting the religious rights of persons of all faiths. This record is in sharp contrast to the Jordanian record of the previous 20 years, a period during which Jews were denied all access to their holiest shrines. The Israeli Government's goal of protecting the rights of every faith has been made all the more difficult by the extraordinary proximity of Jewish and Muslim holy sites in Jerusalem. Yet, for the past 23 years persons of both faiths have enjoyed full freedom of religion, as have Christians. This strong commitment to tolerance was again exhibited when Israel authorities went to court last week to prevent a small Jewish group from holding a ceremony on the Temple Mount.

Israeli authorities were rewarded for their successful efforts to prevent the disruption of Muslim worship with a rain of stones and debris thrown from a considerable height at thousands of Jewish worshippers at the Western Wall. Having been allowed to worship in peace, Palestinians nonetheless attacked Jews in devout and peaceful worship.

Mr. President, exactly what happened next is not yet known, and I welcome the Israeli Government's decision to conduct an inquiry. There appear to be good grounds to believe that, although severely provoked, the Israeli police were ill-prepared to handle the crisis. The deaths and injuries of Palestinian protesters is deeply regrettable and, I am sure, is deeply regretted by the Israeli Government.

I am concerned, however, by reports that the United States is willing to consider supporting a plan to send United Nations' observers to Jerusalem. I have grave doubts as to whether this would be a constructive step at this time. Such an observer mission might in fact prove to be a catalyst for violence. It seems almost inevitable that those who oppose dialog and accord would use the occasion of an observer mission to engage in provocative acts, hoping thereby to cause the very violence which they claim to abhor.

Moreover, an observer mission presumes the neutrality of the observers. Yet one cannot help but wonder whether the institution which declared zionism to be a form of racism and racial discrimination can in any sense be considered an impartial party. To the contrary. It has, as an institution, firmly allied itself with the most odious propagandistic claim of one party to this conflict. I urge the administration to vigorously oppose this proposal.●

## RESOLUTION TRUST CORPORATION FUNDING ACT OF 1990

● Mr. KERRY. Mr. President, this morning the Banking Committee held a markup in which it considered the Resolution Trust Corporation Funding Act of 1990. While the act passed on voice vote, I asked that I be recorded as having opposed the provision.

I would like to explain my vote to oppose the measure.

Mr. President, the savings and loan crisis is the most significant financial crisis that has confronted this country since the Great Depression.

Some have estimated that the cost, spread out over many years, could reach as high $500 billion. One thing is certain, the administration has consistently revised upward its estimate of what the clean-up will cost. The record is clear. The midyear estimate by the Treasury Department projected the total clean-up cost would reach $62 billion by the end of fiscal year 1991. Two weeks ago the administration revised the figure in the budget negotiations to $88 billion. Chairman Seidman has placed the figure at $100 billion. And yesterday the figure rose to $117 billion.

The figure of $117 billion contemplates $60 billion in short-term borrowing and $57 billion which the Banking Committee is being asked to authorize.

Although invited by the committee to appear, Secretary Brady chose to send Under Secretary Glauber to discuss the needs of the RTC. On October 10, Secretary Brady did send the committee a 2 page letter, indicating that the Congress should approve an additional $57 billion. The Secretary's only justification for the funds was only that Chairman Seidman had indicated that this was the amount required and that, if it was not received, the RTC would be forced to cease operations within the next 2 months. The Secretary is trying to hold a gun to the head of the Congress.

However, I cannot in good conscience vote to authorize an additional $57 billion of taxpayer money when the Secretary of the Treasury cannot come before the committee and justify every cent of his request.

Nor can I vote to authorize $57 billion because I believe the administration has not presented the American people with a clear view as to how this money will be raised. The proposal for new funds is that they be placed on budget, but will not count against Gramm-Rudman. This may be politically palatable, but the fact is that it makes a mockery of the budget process. It is grossly misleading to the American people.

Nor can I vote to authorize additional funds for the S&L bailout because I do not believe that the cost for the S&L collapse should be placed on the average wage earner who had nothing to do with the crisis at hand, but who is being forced to fork over their hard earned dollars.

Nor can I vote to authorize additional funds for the S&L bailout because I do not believe that the taxpayers in the Northeast should be bailing out the residents of the Southwest. Most of the failed S&L's were located in the Southwest. Most of them were State regulated. Most of the deposits were from the region and most of the benefits went to the region. But a disproportionate share of tax dollars are coming from the Northeast given the dearth of S&L failures in the region. That does not seem right to me; $57 billion is a lot of money. The administration should not dare to ask for it and Congress should not dare to appropriate it until every cent can be fully justified.●

## CENSUS SHOULD BE ADJUSTED

● Mr. RIEGLE. Mr. President, I rise today to express my strong support for Senate Resolution 338 which expresses the sense of the Senate that the Secretary of Commerce should make available statistical adjustments to reflect the undercount in the 1990 census data by April 1, 1991. To meet the needs of tomorrow we need an accurate and complete count today. This resolution requests that the Secretary of Commerce release the adjusted census data no later than April 1, 1991, in order to avoid complications with respect to formulating redistricting plans and to make sure that Federal dollars are distributed fairly.

When the preliminary census figures were made available it became quite clear that large segments of our Nation had not been counted. The Commerce Department announced plans to consider adjusting the census figures through an alternative methodology. A final decision on whether to adjust the census will not be made until July 15, 1991. Unfortunately, the Census Bureau plans to release population figures April 1, 1991, so the States can begin redistricting. Thus some States will be working on their redistricting maps and reshuffling their assistance programs well before the adjusted figures are released. This delay will allow some officials to ignore adjusted figures even if they become available, and that will increase the number of lawsuits that typically result from redistricting.

The Census Bureau has made considerable progress in reducing the undercount. In fact, the 1990 census count of the homeless was the first attempt at obtaining a snapshot of America's silent population. In Michigan, every effort was made by local communities to cooperate and assist the Census Bureau in their efforts to obtain an accurate count. Currently in Michigan estimates of the number of homeless range from 30,000 to over 90,000, while national figures range from a quarter of a million to 3 million.

Although the Census Bureau has made significant progress in reducing the undercount, the fact still remains that many people are undercounted. Just this month Detroit volunteers found 11,000 more residents who were missed by the U.S. Census Bureau. For several weekends, city workers and volunteers have walked door to door in several areas where tney believed residents may have been missed by Government enumerators.

In my home State of Michigan the preliminary census figures indicate that there are 9,180,000 people living in Michigan. That projection falls far below our estimate of 9,363,000. These figures for Michigan indicate that small cities, towns, and counties have also experienced significant population undercounts. These preliminary population projections may represent as much as $30 million lost Federal dollars to the State of Michigan.

Undercount results for several reasons. First, individuals who do not have a fixed residence often go uncounted because there is a problem identifying special places or group quarter occupants. These facilities include such places as dormitory housing units, jails, and prisons. Second, the questionnaires are not always answered accurately. And finally, for a variety of reasons, many people simply do not return the questionnaire.

Large and small cities alike are challenging the preliminary data. Clio, MI is a closely knit 1-square-mile city with 2,125 registered voters. This city is strongly dissatisfied with the preliminary census count of 2,551. Clio area schools report that they have 2,125 voters plus 509 school age children within their city limits for a total of 2,634 people. When one considers that this number does not include unregistered voters and preschoolers, the census count of 2,551 does not seem reasonable. To further illustrate the need to readjust the count in a timely matter, I have been notified by the city council for the city of Swartz Creek, MI of their formal protest of an undercount of population during the 1990 Census. The preliminary 1990 census indicates 1,985 housing units and an estimated population of 4,837 and these figures indicate a 10-percent increase in housing units with a 4-percent decrease in population. Clearly, a discrepancy exists and should be adjusted.

Mr. President, it is no great secret that errors in the census count have historically had a particularly negative impact on inner city minority communities. This has resulted in inaccurate redistricting in and the loss of Federal funds to these communities. In 1980, blacks constituted a majority, 53 percent, of those undercounted despite only representing 12 percent of the total U.S. population. These undercounts must not be tolerated in calculating the 1990 census data. With the economic slowdown that many of the States are experiencing the allocation of $30 billion in Federal funds is more important than ever. Furthermore, the fair apportionment of the 435 seats in the House of Representatives is dependent on accurate and complete census data.

I urge my colleagues to join us in sending a strong message to the administration to adjust the data to reflect the undercount and to make that information available on a timely basis.●

## RECOGNITION OF GLENDA LUNA'S ACT OF COURAGE

● Mr. AKAKA. Mr. President, I rise today to recognize a distinguished resident of the State of Hawaii, Mrs. Glenda Luna, who saved the lives of three young boys.

On July 20, 1990, a unit at the Hawaii Housing Authority project in Lahaina, Maui, caught fire. This fire, which was accidentally started by one of the boys, quickly engulfed the apartment. Without hesitation, Mrs. Luna, who lived in an adjoining apartment, entered the smoke-filled home and singlehandedly rescued David Piutau, Darren Almeida, and Devin Almeida. Today, these three boys owe their lives to this very special woman.

Heroism, Mr. President, is a conscious decision—recognizing the dangers and the consequences, Mrs. Luna acted on her own, undaunted by the flames dancing around her. This courage can only be found within the individual person. Mrs. Luna has this unique courage.

Mr. President, at times the world in which we live seems to lack the moral conscience of our forefathers. This is truly unfortunate. Mrs. Luna's heroic feat is an uncommon occurrence in today's society. As a father and grandfather, I know that the family of the boys is grateful for Mrs. Luna's unselfish action.

The stigma associated with public housing is too often untrue and unwarranted. Violence and crime are not inherent traits of public housing tenants. This negative characterization must be shed. Mrs. Luna saved the lives of her neighbor's children and, thus, disproved this misconception. Society should take note of her courage and learn from her example.

Mr. President, I join the Hawaii Housing Authority in recognizing the act of bravery and selflessness exhibited by Mrs. Glenda Luna on July 20, 1990.●

## STEWART B. McKINNEY HOMELESS ASSISTANCE ACT AMENDMENTS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to H.R. 3789, the McKinney homeless reauthorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk reads as follows:

A bill (H.R. 3789), to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, 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.

AMENDMENT NO. 2972

(Purpose: To combat homelessness and dependency through the establishment of housing-based family support centers, through the provision of housing-based services to frail elderly individuals and individuals with chronic and debilitating illnesses and conditions, through the provision of residence-based outpatient mental health and substance abuse services, and through the use of grants for the improvement of community development corporations)

Mr. WIRTH. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for Mr. KENNEDY, proposes an amendment numbered 2972.

Mr. WIRTH. 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.")

AMENDMENT NO. 2973 TO AMENDMENT NO. 2972

(Purpose: To provide for homeless individuals to work on the shelter which is his or her primary nightime residence by exempting them from the Davis-Bacon Act, the Service Contract Act and any other similar provision of Federal law)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for Mr. NICKLES (for himself, Mr. BOSCHWITZ, Mr. MCCONNELL, Mr. SYMMS, and Mr. ARMSTRONG) proposes an amendment numbered 2973 to amendment No. 2972.

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

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

The amendment is as follows:

At the end of the bill, add the following new subsection:

SEC. . TO PROVIDE FOR HOMELESS INDIVIDUALS TO WORK ON THEIR SHELTER.

Notwithstanding any other provision of law, the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes," approved March 3, 1931 (40 U.S.C. 276a(a)), commonly known as the Davis-Bacon Act, as well as the Service Contract Act of 1965 (41 U.S.C. 356), and any other similar provision of Federal law, shall not be required with respect to any homeless individual employed in connection with a project, which is or will be his or her primary nighttime residence and which is constructed, improved, or otherwise assisted under the provisions of this Act or any amendment made by this Act.

Mr. ARMSTRONG. Mr. President, I urge the amendment to the Kennedy amendment be adopted.

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

The amendment (No. 2973), was agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts as amended.

The amendment (No. 2972), as amended, was agreed to.

Mr. GLENN. Mr. President, is it the distinguished Senator from Massachusetts' understanding that the three programs included in H.R. 3789—the Interagency Council on the Homeless, the FEMA Emergency Food and Shelter Program, and the Title V Surplus Property Program—are under the sole jurisdiction of the Governmental Affairs Committee and that, therefore, conferees from this committee will be appointed to reconcile the Senate and House versions?

Mr. KENNEDY. My distinguished colleague from Ohio is correct.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 3789), as amended, was passed.

Mr. WIRTH. I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer [Mr. FORD] appointed from the Committee on Labor and Human Resources for matters within their jurisdiction, Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. HATCH, and Mr. DURENBERGER; and from the Committee on Governmental Affairs, for matters within their jurisdiction, Mr. GLENN, Mr. KOHL, Mr. LIEBERMAN, Mr. ROTH, and Mr. STEVENS.

Mr. GLENN. Mr. President, today we have passed H.R. 3789, a bill which will reauthorize two programs in the Governmental Affairs Committee jurisdiction, and which contains important changes to a third, the title V, Surplus Real and Personal Property Program. This legislation is a critical part of Congress' effort to ensure the continued functioning of the Omnibus McKinney Act, a collection of programs that has proven to be very successful over the past 3 years.

Mr. President, over the past 3 years, the homeless problem has become a festering sore on the social conscience of America. There is no escaping the hard facts—millions remain homeless or chronically vulnerable to the condition. Millions more teeter perilously on the edge of personal disaster leading directly to homelessness. Increasingly, the homeless are families, single mothers with children, rural Americans, many of whose relatives or friends are the only thing between them and the street. Studies and surveys all over the country are documenting a catastrophe of untold proportions—the birth of a permanent underclass, composed of mothers and their children, sliding down the same hole of poverty into homelessness, from one generation to the next.

I want to commend the Senate for the action it has taken. I look forward to the speedy enactment of this most important measure by the President.

## THE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to consideration en bloc of the following calendar items: Calendar 912, 913, 915, 916, and 939; that where applicable, the committee amendments be agreed to and the bills be read for a third time and passed; and the motions to reconsider be laid upon th table.

I further ask unanimous consent that their consideration be shown individually in the RECORD, and that any statements in relation thereto appear at the appropriate place in the RECORD, as though read.

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

## CONVEYANCE OF CERTAIN LANDS TO TAOS, NM

The Senate proceeded to consider the bill (S. 1831) to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM, 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. CONVEYANCE OF PROPERTY.

(a) CONVEYANCE.—No later than eighteen months after the date of enactment of this Act, the Secretary of Agriculture, (hereinafter referred to as "the Secretary") shall, in accordance with the provisions of this Act, convey by quitclaim deed, all right, title and interest of the United States in the property described in subsection (b), to the town of Taos, New Mexico, (hereinafter referred to as "the town").

(b) DESCRIPTION OF PROPERTY.—The property to be conveyed pursuant to subsection (a) includes the lands and improvements thereon, commonly referred to as the "Old Taos Ranger District Office and Warehouse" (hereinafter referred to as "the property"). Such property, located in Taos, New Mexico, comprises approximately 0.633 acre, and is more particularly described in the warranty deed dated January 22, 1937, by William T. and Mary E. Hinde, husband and wife, to the United States, recorded in Book A-34, page 415, of the Record of Deeds, Taos County, New Mexico.

(c) CONSIDERATION.—In consideration for such conveyance, the town shall pay the United States an amount equal to the administrative costs associated with the preparation of title and legal description of the property, as determined by the Secretary of Agriculture.

(d) REVERSION.—Title to the property conveyed pursuant to subsection (a) shall revert to the United States if the town attempts to convey or otherwise transfer ownership of any portion of such property to any other party, or permits the use of any portion of such property for purposes other than those described in subsection (e).

(e) USES OF PROPERTY.—The property conveyed to the town pursuant to this Act shall be used solely as a community center or for related public purposes.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DOMENICI. Mr. President, today the Senate considered S. 1831, a bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM. I am pleased to be a cosponsor of this legislation with my colleague, Senator BINGAMAN, and congratulate him for his efforts on this important legislation.

S. 1831 directs the Secretary of Agriculture to convey the Old Taos Ranger District Office and warehouse to the

town of Taos, NM. The facilities are to be used solely as a community center and for other related public purposes.

It further directs the town of Taos to pay for the administrative costs associated with the conveyance and provides for reversion back to the Government of the property in the event that Taos uses the property for purposes other than those described in the act.

Mr. President, I strongly support the passage of S. 1831. It will provide a much needed community center in Taos that will be enjoyed by many of my fellow New Mexicans. I hope my colleagues in the Senate will join me in supporting this bill.

## PECOS NATIONAL HISTORICAL PARK EXPANSION ACT

The Senate proceeded to consider the bill (S. 2165) to establish the Glorieta National Battlefield in the State of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clauses and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pecos National Historical Park Expansion Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—THE CONGRESS MAKES THE FOLLOWING FINDINGS

(1) the Civil War battle of Glorieta Pass, New Mexico, fought on March 26-28, 1982, was the most decisive battle of the Civil War in the Far West, prompting some historians to label it the "Gettysburg of the West";

(2) the battle was particularly significant since following the Confederate defeat at Glorieta Pass, the Confederate grand design to capture the riches and support of the West collapsed as the Confederate forces withdrew from New Mexico and the Rocky Mountains, thus largely ending the Civil War in the West;

(3) although proposals have been advanced for Government protection of the battlefield sites, the areas has not been protected and is subject to a variety of impacts and threats to the integrity of the historic scene;

(4) the campsite and headquarters of the Union forces during the Battle of Glorieta are currently within the boundary of the Pecos National Historical Park;

(5) the purpose of the Pecos National Historical Park is to interpret the significant prehistoric and historic events which have occurred in the area; and

(6) expanding the Pecos National Historical Park to include the most significant sites of the Battle of Glorieta will enhance the ability of the National Park Service to interpret the battle and improve visitor understanding of the Civil War in the Far West.

(b) PURPOSE.—The purpose of this Act is to recognize the national significance of the Battle of Glorieta and to provide for the interpretation of the battlefield by establishing a new unit of Pecos National Historical Park at the two primary battlefield sites.

SEC. 3. ESTABLISHMENT OF THE GLORIETA UNIT OF THE PECOS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, there is hereby established the Glorieta Unit of the Pecos National Historical Park, (hereinafter referred to as "the Glorieta Unit"), comprising approximately 682 acres as generally depicted on the maps entitled "Glorieta Unit—Pecos National Historical Park", numbered 430—80,031 and dated July, 1990, (hereinafter referred to as "the maps"). The boundary of the Pecos National Historical Park, established by an Act entitled "An Act to establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes" (Public Law 101-313, and hereinafter referred to as "The Petroglyph and Pecos Establishment Act"), is hereby modified to include the Glorieta Unit.

(b) ADMINISTRATION.—The Secretary shall administer the Glorieta Unit to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, in accordance with the provisions of this Act, applicable provisions of the Petroglyph and Pecos Establishment Act, and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

(c) ACQUISITION.—Subject to the limitations contained in this subsection, the Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the Glorieta Unit by donation, purchase with donated or appropriated funds, or exchange.

(1) Lands, waters, and interests therein located within the Glorieta Unit outside the "Historic Zone", on the maps referred to in subsection (a), may be acquired only with the consent of the owner thereof.

(2) Lands identified on the maps referred to in subsection (a) as being within the "Historic Zone" may be acquired only by donation.

(d) TRANSFER.—Lands identified on the maps referred to in subsection (a) as being within unit number 26 in the "Historic Zone" are hereby transferred from the administration of the Secretary of Agriculture to the administration of the Secretary of the Interior, to be managed in accordance with the provisions of this Act.

(e) MANAGEMENT PLAN. The Secretary shall incorporate management direction for the Glorieta Unit into the general management plan for the Pecos National Historical Park, including the identification of routes of travel associated with the Battle of Glorieta, and a study of the feasibility of establishing hiking and riding trails and associated facilities along such routes in cooperation with local landowners.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to expand the boundaries of the Pecos National Historical Park."

Mr. DOMENICI. Mr. President, today the Senate enacted S. 2165, which will provide Federal protection to the site of the Battle of Glorieta in New Mexico. My colleague from New Mexico, Mr. BINGAMAN, introduced this bill, and I am pleased to be a cosponsor.

Millions of Americans were enthralled recently by PBS's outstanding documentary on the Civil War. This program increased the public's knowledge of the most turbulent era of our Nation's history and has generated new interest in the sites associated with the war.

Mr. President, I am sure that before "The Civil War" aired very few Americans realized that the Civil War was fought not only in the East but also in the Southwest.

In March 1862, Glorieta Pass on the Santa Fe Trail was the site of one of the western-most battles of the Civil War. The Battle of Glorieta Pass, known as the "Gettysburg of the West," marked the turning point of the Confederate drive to occupy Arizona and New Mexico and thus establish a foothold for control of the far west.

The troops fought to a draw, but the Union forces "won" the battle when a Union regiment snuck behind Confederate lines and burned their supply wagons, thus forcing the Confederates to abandon their campaign.

The bill would establish 682 acres at the site of Glorieta Battle as the Glorieta Unit of Pecos National Historical Park. Pecos National Historical Park was established earlier this year by merging Pecos National Monument with the adjacent Forked Lightning Ranch, which will be soon be donated to the National Park Service by the Conservation Fund. Pecos National Historical Park currently contains the campsite and headquarters of the Union forces that were involved in the Battle of Glorieta.

The Glorieta Unit of Pecos would consist of the Pigeon's Ranch Site and the Johnson's Ranch Site.

Mr. President, I had a concern about the use of condemnation to acquire the lands that would be protected by this legislation. I am pleased that the legislation has been modified to address those concerns and reduce the possibility that condemnation will be utilized.

The site of the Battle of Glorieta is worthy of protection. This legislation will preserve this site and increase the public's knowledge of this important episode in the Civil War. I am pleased the Senate has approved this bill.

## ENCHANTED NATIONAL FORESTS INFORMATION AND EDUCATION STUDY ACT

The bill (S. 2527) to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an ex-

panded environmental education program in New Mexico, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2527

*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 "Enchanted National Forests Information and Education Study Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) environmental education is fundamental to expanding our understanding of the environment;

(2) the natural resources found on national forests in New Mexico, the Land of Enchantment, can contribute to environmental education programs;

(3) the Forest Service plays a vital role in the environmental education of all Americans;

(4) a center to provide information on the national forests in New Mexico would increase public awareness of their national forests, increase participation in management decisions, and improve the public's appreciation of their national forests;

(5) there is not a central facility dedicated to providing information on the national forests in New Mexico to residents and out-of-State visitors; and

(6) in light of the opportunities provided by national forests and the importance of environmental education, it is necessary to identify, through a comprehensive study, the opportunities that are available to provide information to the public on the national forests of New Mexico and to expand the environmental education program for those forests.

SEC. 3. STUDY AND REPORT BY THE FOREST SERVICE.

(a) STUDY.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall conduct a study of the opportunities to establish a center to provide information on the national forests in New Mexico and to expand the environmental education program for those forests.

(b) REPORT.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary of Agriculture shall transmit the Study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) CONTENTS OF STUDY.—The study referred to in subsection (a) shall develop alternative means for the national forests in New Mexico to provide information that improves public awareness and participation in management of their national forests and to expand the environmental education program for those forests. Alternatives shall include an information and education center located in or near Albuquerque, New Mexico, and an expanded education outreach program.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carryout this Act.

Mr. DOMENICI. Mr. President, I rise today in support of S. 2527, the Enchanted National Forests Information and Education Study Act of 1990.

I am pleased to be a cosponsor of this legislation with my colleague, Senator BINGAMAN, and congratulate him for his efforts on this legislation.

The Enchanted National Forests Information and Education Study Act of 1990 directs the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico.

The names Cibola, Gila, Lincoln, Carson, and Santa Fe remind many of special places we have enjoyed with our families. New Mexicans and many visitors to my great State have long enjoyed the benefits of our National Forests. We are fortunate to have more than 9 million acres of these national treasures in New Mexico.

S. 2527 would provide a way for us to share information about our National Forests with those who visit New Mexico. Further it calls for expanding environmental education programs in the forests to help us better understand our relationships with our environment and our responsibilities use our forests in a responsible manner.

Mr. President, I support the passage of S. 2527. I thank my colleagues in the Senate for supporting this bill.

## PREHISTORIC TRACKWAYS STUDY ACT

The Senate proceeded to consider the bill (S. 2684) to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM, 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. SHORT TITLE.

This Act may be cited as the "Prehistoric Trackways Study Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) fossils are important for scientific studies of prehistoric life on earth;

(2) lands administered by the Bureau of Land Management in the Robledo Mountains in New Mexico contain one of the most important fossil discoveries of the 20th century;

(3) discoveries have included prehistoric tracks of amphibians, reptiles, arthropods and insects, extensive plant fossils, and clues to the weather and climate of the period;

(4) fossil footprints that form trackways help scientists recreate the environment and habitat that supported prehistoric life;

(5) nearly one hundred trackways from the Permian Age have been uncovered in the Robledo Mountains;

(6) the trackways are over 280 million years old and they document the emergence of life from water to land;

(7) the trackways are unique in length and represent most taxonomic groups, including many prints of previously unknown animals;

(8) the trackways and other fossils are being lost for scientific study through unsupervised collecting, and commercial quarrying; and

(9) the trackways and fossils found in the Robledo Mountains and surrounding areas should be evaluated for their potential protection and value for scientific interpretation and education.

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

(1) require the Secretary of the Interior to conduct a study to consider appropriate means to protect the discoveries and identify the scientific, interpretive, and public education values associated with the trackways and fossils located in the Robledo Mountains in southeastern New Mexico; and

(2) provide for interim protection of such trackways and fossils.

SEC. 3. INTERIM WITHDRAWAL.

(a) IN GENERAL.—The area consisting of approximately 736 acres as generally depicted on the map entitled "Prehistoric Trackways Study Area" numbered NM 030-01 and dated September, 1990, (hereafter referred to as the "study area") is hereby withdrawn, subject to valid existing rights, from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, but not from operation under the mineral leasing laws. Such withdrawal shall terminate on the date 2 years after the date the study referred to in section 4 is transmitted to Congress.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

SEC. 4. STUDY.

(a) STUDY.—The Secretary of the Interior (hereafter referred to as the "Secretary"), in cooperation with State and local governments, and institutions of higher education, shall conduct a study of the alternatives for the protection and interpretation of the fossil resources within the study area.

(2) The study. shall include an analysis of the importance of the discoveries at the site and an evaluation of the feasibility of a developing a facility in New Mexico to evaluate, curate, display, and interpret the fossil resources located within the study area.

(3) The study shall recommend the preferred administrative designation for the area, including but not limited to potential designation as a unit of the National Park System, and the appropriate management agency.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study required in subsection (a), the Secretary shall transmit such study 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.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DOMENICI. Mr. President, I rise today to voice my strong support for S. 2684, the Prehistoric Trackways

Study Act of 1990. I am pleased to be a cosponsor of this important legislation with my colleague, Senator BINGAMAN, and congratulate him for his efforts on this measure.

S. 2684 requires the Secretary of the Interior to conduct a study to identify the scientific, interpretive, and public education values associated with the nationally significant fossils and fossil trackways found in the Robledo Mountains near Las Cruces, NM. It further directs the Secretary to determine the appropriate means to protect the fossils.

The results of the study are to be reported to Congress with a recommendation on the proper administrative designation for the area and the agency that should be designated to manage the area.

The Robledo Mountains contain prehistoric tracks of amphibians, reptiles, arthropods, and insects; extensive plant fossils; and important clues to the weather and climate from the Permian Era dating back to over 280 million years ago. The trackways are unique in length and contain prints of many previously unknown animals.

Mr. President, I want to personally commend Mr. Jerry McDonald, a New Mexico State University graduate student working on a Ph.D., who made this magnificent discovery 3 years ago. Mr. McDonald describes one episode in his discovery this way: "preserved are the dramatic encounters of vertebrates with invertebrates. A fight between a small reptile and it's quarry—a 12-inch-long centipede. Or the deadly antics of a 12-foot vertebrate Pelycosaur and a soon to be squashed cockroach. The battles of vertebrate animals among themselves are preserved like still photographs frozen in time."

The trackways in the Robledo Mountains have already attracted the attention of internationally recognized experts in the field of paleontology. These experts come from such distinguished institutions as the Smithsonian Institution, the Carnegie Museum of Natural History in Pittsburgh, and the Los Angeles County Museum of Natural History.

Mr. President, I strongly support the passage of S. 2684. This important legislation is needed now to study and protect the nationally significant fossil resources discovered in the Robledo Mountains in New Mexico. I thank my colleagues for supporting this important bill.

## FORT TOTTEN NATIONAL HISTORIC SITE

The bill (S. 2802) to authorize the establishment of the Fort Totten National Historic Site was considered, ordered to be engrossed for third reading, read the third time, and passed; as follows:

S. 2802

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Fort Totten National Historic Site Act".

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) Fort Totten is one of the best preserved military posts surviving from the Indian wars in the trans-Mississippi west;

(2) Fort Totten has played a significant role in American Indian History, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school; and

(3) Fort Totten is in immediate need of major repairs and restoration work which are beyond the capabilities of the State of North Dakota and which would be best undertaken by the National Park Service.

ACQUISITION OF HISTORICAL SITE

SEC. 3. In order to preserve Fort Totten, the Secretary of the Interior is authorized to acquire by donation from the State of North Dakota, the real property described in section 4 for the establishment and administration of a national historic site.

DESCRIPTION OF SITE

SEC. 4. The real property referred to in section 3 is that real property known as the Fort Totten State Historic Site located approximately twelve miles southwest of the town of Devils Lake, North Dakota, on the south shore of Devils Lake on the Fort Totten Indian Reservation.

ADMINISTRATION OF SITE

SEC. 5. The property acquired under this Act shall be known as the "Fort Totten National Historic Site", and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (30 Stat. 535; 16 U.S.C. 1, 2–4) and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

GENERAL MANAGEMENT PLAN

SEC. 6. Within two years after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the use and development of the site consistent with the purposes of this section, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

AUTHORIZATION

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. CONRAD. Mr. President, I rise today to support enactment of S. 2802. The bill would authorize the establishment of Fort Totten, a former military post and Indian school near Devils Lake, ND, as a National Historic Site.

The bill was reported unanimously on September 26, 1990, by the Senate Committee on Energy and Natural Resources, following a hearing before the Subcommittee on Public Lands on September 20. At the hearing, the National Park Service testified that there are no units of the National Park System like Fort Totten that represent the special attempts by the Federal Government to assimilate native Americans into our culture. The site is therefore unique and nationally significant, and the bill deserves the support of my colleagues.

Fort Totten State Historic Site on the shores of Devils Lake stands as a monument to the relationship between the U.S. Government and the American Indians. From the policy of pacification practiced during the mid-nineteenth century, to the attempt to assimilate Indians into the society's mainstream, to the mid-twentieth century effort to terminate reservations, Fort Totten reflected the Federal responses to the "Indian question."

Fort Totten was founded as a military installation in 1867 and closed as a reservation community school in 1959. It is one of the best preserved military posts surviving from the Indian wars in the trans-Mississippi west. Fort Totten played a significant role in American Indian history, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school.

To the army during the 19th century, the Devils Lake area appeared as an oasis. As a result of the constant water supply of Devils Lake, the region had rich vegetation, wild game and fish. Because it was remote from the civilized centers of nineteenth century America, however, the Devils Lake region drew few white explorers in its early history. The Indian that sought the game and shelter of the Devils Lake region generally belonged to the great Sioux or Dakota nation, a tribe that traced its relations with white settlers back into the seventeenth century.

The initial spark for military activity was struck with the Great Sioux Uprising of 1862 in Minnesota. The uprising was the culmination of generations of white harassment, broken treaties, and the noticeable absence of the military due to the drain of the Civil War. Gen. Harry Hastings Sibley was sent in to quash the rebellion, and

after Congress abrogated all existing treaties early in 1863, many Sioux bands migrated to areas of refuge and security and so the forest and waters of the Devils Lake area became a haven.

The War Department found that killing of whites and depredations to property posed a major threat to the expanding agricultural frontier and thus demanded a positive and forceful reaction. By the spring of 1867, the majority of hostile attacks had been limited to main travel routes, mail carriers, and inter-fort communication routes. Nevertheless, the sporadic harassment of the growing and vital lines of communication and travel became an increasing concern for the military. What had been mostly incident-reprisal warfare between the whites and the Indians became a constant Sioux guerilla war on early trade, supply, and travel routes.

In the summer of 1867, 323 soldiers of the 31st Infantry under the command of Captain Samuel A. Wainwright built Fort Totten about 900 feet from the shore of Devils Lake. From 1867 to 1880, the post served as an important link to a chain of posts that included forts throughout the Dakotas and Montana. The last harrah of real military action for the fort came in 1865 when the northern border regions became insecure as a result of the Riel Rebellion in Canada.

When Secretary of War Redfield Proctor submitted his annual report of 1890-91, he recommended that the fort be closed due to relative calm in the region. The final military unit at Fort Totten, 10 men under the direction of the last post commander, Maj. S.S. Conrad, left the post for Fort Abraham Lincoln near Mandan, ND on December 21, 1890. On the same day all post buildings were turned over to the superintendent of the Indian School at Devils Lake, and the Devils Lake Sioux opened their first school session at the abandoned post on January 19, 1891.

Fort Totten's original function had been the protection of the routes of travel and communication that grew through its jurisdiction. The men who struggled with the harsh earlier life of the prairies went about their duties protecting the first mail and travel routes and escorting the varied mapping, survey, and telegraph and rail crews. In turn, this growth provided an umbrella of protection for new communities. The garrison was a market for the new farms, a store for manufactured foods for the area's population, and a source of new settlers.

The military years of the fort, however, were only a part of the colorful history of the site. The military stage represented only 23 of the 92 years of operation. The Dawes Act of 1887 attempted to make Indians self-sufficient citizens rather than wards of the U.S. Government and emphasized the need for a system of industrial schools to be developed to speed up the process of assimilation. Fort Totten became one of those schools, and its subsequent history is a microcosm of the successes and failures of the Federal relationship with the American Indian.

Fort Totten remains significant, in part, for its magnificent physical survival. It is also significant as a result of the soldiers who lived and survived there and the Indians who struggled with Federal policies toward native Americans. It is significant for the life Fort Totten brought—the towns and farms that now inhabit the region. S. 2802 would recognize that significance by establishing Fort Totten as a national historic site. I thank my colleagues for supporting its enactment.

## VACCINE AND IMMUNIZATION AMENDMENTS OF 1990

Mr. WIRTH. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 743, H.R. 4238, a bill to extend various vaccine-preventable disease programs.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases.

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. 2974

(Purpose: To provide for a substitute amendment)

Mr. WIRTH. Mr. President, I send a substitute amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for Mr. KENNEDY, proposes an amendment numbered 2974.

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

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

(a) EXTENSION OF GENERAL PROGRAM.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

(b) DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) SECTION 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation

under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.",

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) ADDITIONAL INFORMATION", and

(5) in subsection (e), by striking "(e)" before "(e) SCHEDULE".

(b) SECTION 2112.—

(1) SUSPENSION OF PROCEEDINGS.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C)."

(2) NOTICE.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) NOTICE.— If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) SECTION 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) SECTION 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) SECTION 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action, (2) an election is made under section 2121(b) to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) SECTION 2121.—

(1) LIMITATION ON ACTIONS.—Section 2121(a) of the Public Health Service Act (42 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the administration of a vaccine after the effective date of this part".

(2) WITHDRAWAL OF PETITION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) WITHDRAWAL OF PETITION.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) SECTION 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—

(A) by striking "of title XXI" and inserting "part A or B of subtitle 2 of title XXI", and

(B) by striking "such title XXI" and inserting "both such parts", and

(2) by adding at the end the following:

"(c) REVIEW UNDER SECTION 2112(f).—If the review authorized by section 2112(f) is held invalid because the judgment of the United States Claims Court being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Claims Court. Such panel shall not include the judge who participated in such judgment.".

(h) EFFECTIVE DATE.—The amendments made by subsections (f)(1) and (g) shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) shall take effect as of September 30, 1990.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 6601(r) of the Omnibus Reconciliation Act of 1989 (Public Law 101-239) is amended—

(1) in paragraph (1), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992",

(2) in paragraph (2), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992", and

(3) in paragraph (3), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992".

(j) RECORDS AND REPORTS.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by striking out "or (j)" and inserting in lieu thereof "or (k)".

(k) COMMISSIONED CORPS.—

(1) APPOINTMENT OF COMMISSIONED OFFICER.—Section 206(a) of the Public Health Service Act (42 U.S.C. 207(a)) is amended by inserting after the first sentence the following new sentence: "During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.".

(2) CONFORMING AMENDMENT.—Section 201(a) of title 37, United States Code, is amended by inserting "Assistant Secretary for Health." in the fourth column of the table corresponding with pay grade 0-10.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the first day of the month immediately following the month in which this Act was enacted.

SEC. 6. TECHNICAL AMENDMENTS IN CERTAIN PROGRAMS PROVIDING SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) FORMULA FOR EMERGENCY RELIEF GRANTS.—Section 2603(a)(3) of the Public Health Service Act, as added by section 101(3) of Public Law 101-381, is amended to read as follows:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—

"(i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) SET-ASIDE REGARDING CATEGORICAL GRANTS TO CERTAIN ENTITIES FOR EARLY INTERVENTION SERVICES.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) by striking "(c) Certain Allocations" and all that follows through "After determining" and inserting the following:

"(c) Certain Allocations by Secretary.—

"(1) DISCRETIONARY GRANTS TO CERTAIN STATES.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) GRANTS TO CERTAIN POLITICAL SUBDIVISIONS.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) MISCELLANEOUS AMENDMENT.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".

Mr. KENNEDY. Mr. President, the immunization and vaccine programs which the Senate amendment to H.R. 4238 reauthorizes are among the most valuable public health programs, yet they face significant challenges in achieving the goal of reducing the incidence of infectious and communicable diseases. The current measles epidemic is of particular concern: as many as 30,000 cases of measles could occur this year whereas the incidence of measles was as low as 1,500 cases 6 years ago. Last year, 40 children died of measles; 3 times as many could die from measles this year.

This bill, which incorporates provisions of S. 2629, authorizes $205 million for the Center for Disease Control's immunization programs in fiscal year 1991, and such sums as may be necessary through 1995, to enable CDC to implement the recommended double dose of measles vaccine and increase outreach efforts to high-risk populations which are not receiving the first dose of the vaccine. This bill also initiates authorization for new demonstration project grants to increase the levels of immunization among children under 2 years of age. These efforts are essential to provide the public health community with the tools necessary to build immunization against the current measles epidemic. These funds will also enable the CDC immunization programs to support greater screening for hepatitis B and develop new vaccines for chicken pox and other diseases.

In addition, this legislation authorizes $5 million to complete a 6-month vaccine stockpile to ensure the stability of the supply of vaccines and $30 million for the National Vaccine Program, which provides interagency coordination of the Federal Government's immunization programs through the Office of the Assistant Secretary for Health at HHS.

Finally, the bill includes a number of technical corrections to the National Vaccine Injury Compensation Program that clarify the legislative language and ensure that the original intent of the Vaccine Injury Compensation Program is accurately reflected in the legislation. Among these technicals is an extension of the deadline for submitting retroactive claims. This past August, Senators LEVIN and MOYNIHAN introduced S. 3004, which would have extended the deadline 6 months. After consulting with the various parties involved, we have included a provision that will extend the deadline for 4 months. I would like to applaud Senator LEVIN for his strong support and diligence on moving this issue.

The Department of Health and Human Services did not release any publicity about the Vaccine Compensation Program until July of this year, years after the date of enactment. With the deadline for filing preact claims having expired October 1, 1990, families just learning about the program this summer had little time to put together the documentation necessary for filing a complete claim. The extension will enable these families to have full access to the program.

Once this extension is enacted, I would urge the Department of Health and Human Services to ensure that information about the extension is disseminated as widely and in as timely a manner as possible.

The immunization of our children against preventable diseases is one of the most cost-effective and humane investments the Federal Government can make. The additional funds authorized by this legislation can help ensure that future epidemics of measles and other preventable diseases do not occur. Changes in the National Vaccine Injury Compensation Program will clarify legislative intent and the extension of the filing deadline will enable families to have full opportunity to file claims for preact injuries. I urge my colleagues to support the Senate amendment to H.R. 4238.

I ask unanimous consent that an explanation of the technicals concerning the Vaccine Compensation Program be printed in the RECORD.

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

JOINT STATEMENT OF EXPLANATION OF AMENDMENTS TO THE NATIONAL VACCINE INJURY COMPENSATION PROGRAM

Section 5 makes a variety of minor and technical amendments to the National Vaccine Injury Compensation Program.

Section 5(a) amends Section 2111 of the Public Health Service Act. Paragraph 1 makes a conforming amendment to clarify that a person who would otherwise be prohibited from bringing a civil action for damages for vaccine injury may do so if he or she (1) files a petition for compensation, (2) receives no judgment from the Claims Court within the appropriate time, and (3) withdraws the petition under the provisions for withdrawal, added by subsection (f), described below.

Paragraph 2 corrects a technical error in the statute.

Paragraph 3 corrects a technical error in the statute.

Paragraph 4 corrects a technical error in the statute.

Paragraph 5 corrects a technical error in the statute.

Section 5(b) amends Section 2112 of the Public Health Service Act. Paragraph 1 gives the chief special master the authority to suspend proceedings on any petition for up to 180 days, over and above other suspensions in the statute, if he or she determines that the number of filings and the workload would create an undue burden on the parties or the Court and that such a suspension is in the interest of justice. The authorizing committees are aware that a very large number of petitions have been filed during the month of September. The Committees also anticipate that a similar increase of filings may occur at the conclusion of the extension of filing time authorized in subsection (e), described below. The committees recognize that the increased workload presented by such a large number of petitions will overburden the Court, the petitioners, the Department of Justice (DOJ), and the Department of Health and Human Services (DHHS). Accordingly, the committees believe that it may become necessary for the strict deadlines imposed by the statute to be suspended in these unusual instances. The committees do not, however, intend for this suspension to become a routine extension of time or for this "ceiling" to become a "floor." Indeed, the committees would expect the chief special master to assure that petitions involving administration of vaccines after the effective date of the program (the so-called "new cases") be processed without suspensions or delay; these cases are bound by the restrictions of Section 2111 and may not proceed in civil actions until the compensation action is completed or withdrawn and should not, therefore, be delayed by the unique problems posed by a surge in filings of petitions involving administration of vaccines before the effective date of the program.

Paragraph 2 requires that notice be given to the petitioner if the special master or the Court does not meet the stautory deadlines for action on the petition.

Section 5(c) amends Section 2113 of the Public Health Service Act to correct a technical error in the statute.

Section 5(d) amends Section 2115 of the Public Health Service Act. Paragraph 1 corrects a technical error in the statute.

Paragraph 2 corrects technical errors in the statute. In addition, subparagraph B makes a conforming amendment to make an exception to the restrictions on civil actions by a petitioner who has accepted compensation, as added by Section 5(f), described below. The exception created by this amendment would allow a petitioner who has elected to accept compensation under Section 2121 to proceed with a civil action if the appropriations made under Section 2115(j) are inadequate to make a payment of annual installment for the compensation. The committees do not anticipate that appropriations will be insufficient to make such payments but also recognize that, if such an event were to occur, it would be unfair to restrict petitioners from pursuing alternative remedies.

Paragraph (3) extends the authorization of appropriations for payment of compensation for petitions involving administration of vaccines before the effective date of the program.

Section 5(e) amends Section 2116 of the Public Health Service Act. Paragraph 1 extends the filing deadline for petitions involving administration of vaccines before the effective date of the program from 24 months to 28 months. The committees have agreed to such a change because they have received complaints that the limited publicity given to the program may have left some legitimately eligible petitioners unaware of the program's availability. The committees do not intend that this extension create an opportunity for filing of claims for injuries that are not described in the Vaccine Injury Table and are not clearly caused by the administration of a vaccine. The committees re-state their original intention that petitions for injuries outside the Table "must affirmatively demonstrate that the injury or aggravation was caused by the vaccine." (House Report 99-908).

Paragraph 1 also restricts filing of such petitions to those cases in which the first symptom or manifestation of injury occurred within three years of the administration of the vaccine.

Paragraph 2 clarifies that limitations on civil actions under State law are to be stayed until the time that an election is made by the petitioner under Section 2121(a) or the time that the petition is withdrawn or is deemed to have been withdrawn under Section 2121(b), as amended by Section 5(f), described below.

Section 5(f) amends Section 2121 of the Public Health Service Act. Paragraph 1 clarifies that no person who elects to receive compensation for a petition involving the administration of a vaccine before the effective date of the program ("old cases") or who is deemed to accept the judgment of the Court regarding such a petition may bring a civil action; an exception to this rule is created by Section 5(d)(2), described above. Paragraph 1 also makes a conforming amendment to clarify that the same restrictions apply to petitions involving the administration of a vaccine after the effective date of the program ("new cases").

The committees have always intended that there be no "double recovery" or parallel actions for vaccine injury or death and have always understood that a petitioner who accepts compensation has given up any similar potential action in other courts. Petitioners are given opportunity to reject compensation if they wish to pursue a civil action, an opportunity that provides significant advantage in knowing the outcome in one venue before choosing whether to pursue action in another. Any attempt both to receive compensation and to pursue tort remedies would be impermissible overreaching.

Paragraph 2 clarifies the opportunity for a petitioner to withdraw the petition under Section 2121(b). As prescribed in the amendment made by Section 5(b)(2), described above, the special master and the court are to provide notice to the petitioner if the prescribed deadline for action (not counting time for allowed suspensions of proceedings of which there are now several) are not met. Under the provisions of this paragraph, if the special master or the court does not meet such deadlines the petitioner may file notice of withdrawal of the petition. If the petitioner does not file such a notice within 30 days, the petition is to be considered withdrawn. Additionally, if a special master or court has failed to meet the prescribed deadline, the special master or court will lose jurisdiction over the petition 30 days after the notice to the petitioner has been issued.

The committees have received information that there is confusion over the extent to which jurisdiction over petitions is retained by the masters and the Court if the statutory deadlines are missed. These amendments are made to clarify that these deadlines are not merely advisory but jurisdictional. The committees recognize that the timeliness of proceedings is not solely within the control of the petitioner, the government, or the Court and that deadlines of this sort may make the burden of the proceedings heavy. The committees believe, however, that one of the chief inducements for old-case petitioners to pursue compensation rather than tort action is the relative certainty that claims will be handled expeditiously. Similarly, the committees believe that new-case petitioners should be given quick consideration of their claims inasmuch as their usual rights in court are precluded during the compensation proceedings. Accordingly, the committees have agreed to these amendments to emphasize that these deadlines are significant to the basic policies of the program and that petitioners, the government, and the Court should act to assure the most direct and abbreviated proceedings and thus to allow petitioners to receive final judgment—whether compensation on or rejection of the petition—as soon as possible.

Section 5(g) amends Section 322 of the National Vaccine Injury Act of 1986. Paragraph 1 clarifies that if a provision of the National Vaccine Compensation Program is ultimately determined to be unconstitutional then both parts of the program, i.e., Part A and Part B, are to become ineffective. Subtitle 1 and other parts of Subtitle 2 are not to be affected by such a determination.

Paragraph 2 provides that, if the appellate review authorized by Section 2112(f) is determined to be unconstitutional because the appellate court cannot hear a case of this nature, a three-judge panel of the Claims Court is to hear the appeal instead. Although the committees do not believe that the review contemplated by the statute is impermissible, the committees have received comments suggesting that such review is without precedent. The committees have, therefore, provided for an alternative method of review so that the program may continue in any event.

Section 5(h) provides for the effective date of the provisions of this Section.

Section 5(i) extends the authorization of appropriations from the Vaccine Injury Compensation Trust for the administration of the program.

Mr. HATCH. Mr. President, I rise to join Senator KENNEDY in supporting the Vaccine and Immunization Amendments of 1990. This bill reauthorizes the immunication programs of the Department of Health and Human Services, establishes a new demonstration program targeted to increasing immunization levels in preschool children, and makes necessary technical changes to the Public Health Service Act.

Immunization for vaccine-preventable diseases has resulted in declining rates of death and disability, and it has proven to be one of the most successful and cost-effective health care services. For example, the reduced incidence of measles yields a 14:1 benefit/cost ratio for the measles vaccine.

That is the good news. The bad news is that the victory we appeared to have in our grasp in the early 1980's seems to be slipping away. There remain problems from low immunization levels among some populations. For example, in the case of measles there is a lack of immunization in many preschool children and the single dose of measles vaccine given to school-age children appears not to be effective. From a 1983 low of 1,500 cases, in 1989 there were major outbreaks of measles, with over 16,000 cases and 40 deaths.

Because of these concerns, the Committee on Labor and Human Resources increased the level of funding for immunizations to provide sufficient funds for a double dose of measles vaccine and expand measles outbreak control activities as well as to support other activities in the fight against vaccine-preventable diseases. The increased funding also will provide for immunizations against chicken pox and infant-transmission of hepatitis B when vaccines are approved for these diseases.

In addition, the bill would establish demonstration projects for outreach and immunization services for children up to 24 months of age. Preschool children who are from low-income families, or from certain high-risk populations or geographic areas are not being immunized at acceptable levels. These infants are at added, and unnecessary, risk of contracting diseases which are fully preventable. This bill will provide grant funds to support the development, demonstration, and evaluation of methods for the screening, referral and immunization of such children.

Other provisions of the bill make important changes to the Vaccine Injury Compensation Program. Under the current law, the deadline for filing claims expired on October 1, 1990 for vaccine-related injuries occurring before enactment of the program. These amendments would extend the filing period for an additional 4 months and it is my understanding the claims court will accept these petitions that, although incomplete, are a good-faith effort to meet the requirements of the court.

In making this change we are responding to the pleas of many parents of children and the adults who have been injured by vaccines. They have told us that they were not aware of the program availability and others have rushed to file petitions by the October 1 deadline even though they have not had time to gather the necessary documentation.

Also, I have been told that some 3,000 cases have been filed in the past several weeks simply overwhelming the ability of the claims court as well as the Departments of Health and Human Services and Justice to process them. To deal with this problem, we have included a change that would provide the court with the authority to suspend, in extraordinary circumstances of undue burden on the parties, proceedings on a petition for up to 6 months. Also, the amendments would increase operating funds so that necessary resources will be available to carry out the program.

Mr. President, this legislation will help the immunization programs of the Public Health Service to regain the momentum, and the significant achievements, of the early 1980's. At the same time, it will make important and necessary technical changes in the Public Health Service Act. I urge my colleagues to join me in moving this legislation forward for the President's signature.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2974) 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 the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4238), as amended, was passed.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

## BILL INDEFINITELY POSTPONED—S. 2629

Mr. WIRTH. Mr. PRESIDENT, I ask unanimous consent the Senate companion Calendar 713, S. 2629, be indefinitely postponed.

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

## BILL INDEFINITELY POSTPONED—S. 1868

Mr. WIRTH. Mr. President, I ask unanimous consent that Calendar 363, S. 1868, be indefinitely postponed.

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

## DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2753.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved,* That the bill from the Senate (S. 2753) entitled "An Act to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

*SECTION 1. SHORT TITLE.*

*This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".*

*SEC. 2. REFERENCE.*

*Except as otherwise 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 Developmental Disabilities Assistance and Bill of Rights Act.*

*SEC. 3. FINDINGS AND PURPOSES.*

*Section 101 of the Act is amended—*

*(1) in subsection (a)—*

*(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";*

*(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and*

*(C) by inserting after paragraph (6) the following new paragraph:*

*"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and*

*(2) in subsection (b)—*

*(A) by striking "and" at the end of paragraph (2);*

*(B) by redesignating paragraph (3) as paragraph (8); and*

*(C) by inserting after paragraph (2) the following new paragraphs:*

*"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;*

*"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;*

*"(5) to promote the inclusion of all persons with developmental disabilities, includ-*

ing persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person";

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding after and below subparagraph (E) the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place such term appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such term appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting after "Developmental Disabilities" the second place such term appears the following: "the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration,"; and

(2) by inserting at the end thereof the following: "Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (39 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in paragraph (1)(B) of subsection (b), by amending the first sentence to read as follows: "The plan must designate the State agency (hereafter in this part referred to as the 'designated State agency') which, on behalf of the State, shall receive, account for, and disburse funds under this part based on the State plan required in section 122, and shall provide required assurances and other administrative support services.";

(2) in paragraph (2)(C) of subsection (b)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services,";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in paragraph (5)(B) of subsection (b)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in paragraph (5)(D)(i) of subsection (b)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii)

(D) by inserting "and" at the end of paragraph (2)(G)(ii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

"(1) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

"(2) not more than ⅓ of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint the membership of the board; and

"(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$24,200,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

*"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—*

*"(A) ethical principles and standards;*

*"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;*

*"(C) the development of a positive behavior management plan;*

*"(D) the use of positive reinforcements appropriate to the developmental level of the person;*

*"(E) the use of emergency procedures; and*

*"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.*

*"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.*

*"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and*

*(3) by adding at the end thereof the following new subsections:*

*"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.*

*"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—*

*"(1) such program has operated for at least 1 year; or*

*"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".*

*SEC. 18. APPLICATIONS.*

*Section 153 of the Act is amended—*

*(1) in subsection (d)(3)—*

*(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";*

*(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";*

*(C) by striking "1987" and inserting "1990" in subparagraph (B); and*

*(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";*

*(2) in subsection (e)(1)—*

*(A) by striking "by regulation"; and*

*(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".*

*SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.*

*Section 154 of the Act is amended to read as follows:*

*"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.*

*"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.*

*"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $5,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.*

*"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".*

*SEC. 20. PURPOSE.*

*Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".*

*SEC. 21. GRANT AUTHORITY.*

*Section 162(a) of the Act is amended—*

*(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and*

*(2) in paragraph (2) to read as follows:*

*"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".*

*SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.*

*Section 163 of the Act is amended to read as follows:*

*"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.*

*"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.*

*"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".*

Amend the title so as to read:

An Act to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

Mr. HARKIN. Mr. President, I rise in support of the amendment in the nature of a substitute to S. 2753, the Developmental Disabilities Assistance and Bill of Rights Act of 1990 proposed by the House of Representatives.

I would like to commend our colleagues from the other body, particularly Representatives WAXMAN and MADIGAN, for their willingness to work together to craft this substitute which I know will further enhance the productivity, independence, and integration into the community of persons with developmental disabilities.

I also believe that the substitute will promote the inclusion of all persons with developmental disabilities in community life, promote the interdependent activities of all persons with developmental disabilities and recognize their talents at home, school, and work, and in recreation and leisure time.

The substitute is identical to S. 2753, except as noted below. First, the substitute includes a 3-year authorization period instead of 4 years. Second, the substitute includes lower authorization levels for fiscal year 1991 and "such sums" in the out years.

[Dollars in millions]

| | Senate | Substitute |
|---|---|---|
| **Basic State Grant for Developmental Disabilities Councils** | | |
| 1991 | $81.27 | $77.4 |
| 1992 | 85.350 | (1) |
| 1993 | 89.6 | (1) |
| **Protection and Advocacy** | | |
| 1991 | 27 | 24 |
| 1992 | 28.35 | (1) |
| 1993 | 29.77 | (1) |
| **University Affiliated Programs** | | |
| 1991 | 18.4 | 16.5 |
| 1992 | 21.042 | (1) |
| 1993 | 23.816 | (1) |
| **Programs of National Significance** | | |
| 1991 | 3.9 | 3.65 |
| 1992 | 4.095 | (1) |
| 1993 | 4.299 | (1) |

[1] Such sums.

Third, the relationship between the developmental disabilities councils and the designated State agencies is clarified. Under the substitute, the plan

must designate the State agency which, on behalf of the State, shall receive, account for and disburse funds based on the State plan and shall provide required assurances and other administrative support services.

In most States, the relationships between DD councils and their designated State agencies is working well; however, in some states the designated agency inappropriately directs the expenditures of DD basic State grant funds to its own priorities, contradicting or refocusing the intended activities in the State plan manadated by the DD Act. Under the amendment, this practice is unacceptable.

Councils must be conflict-free systems advocates in order to implement statutory mandates. With the exception of funds designated under section 122(d)(1) as "administrative"—totaling the lesser of 5 percent or $50,000 of the State grant for legal, accounting and other support services—Congress intends council decisions to be implemented by the State designated agency regarding the operation of Council and its staff, implementation of the approved State plan, planning, coordination, administration of priority area activities and advocacy.

The responsibilities of the designated State agency are expressly limited to ensuring that expenditures are made in a manner consistent with State law regarding grants and contracts, proper accounting and bookkeeping and other fiscal controls, the provision of assurances, and the provision of administrative support services for this program.

The substitute reinforces the council reporting requirement in section 107(a)(3) and that the designated State agency should consult with the council on all fiscal matters.

Fourth, the substitute modifies the respnsibilities of the Federal Interagency Committee.

Finally, the substitute clarifies the appointment of members to the boards of the protection and advocacy systems.

Again, I urge my colleagues to support the substitute amendment.

Mr. DURENBERGER. Mr. President, I rise to support H.R. 5679, the Developmental Disabilities Assistance and Bill of Rights Act of 1990.

As you know, the Senate passed its version of H.R. 5679 earlier this year. Between then and now we have worked closely with the House on their bill, and I am pleased to say that the House adopted most of the Senate's bill with only a few minor changes. I believe the suggested changes by the House are good ones and I encourage my colleagues to accept them as proposed.

Although this little known act provides less than 2 percent of the total Federal funding for persons with developmental disabilities, it plays a significant role in shaping and guiding services for persons with developmental disabilities. It is, in essence, the engine that drives services and the glue that holds the system together. It assists States in ensuring people with developmental disabilities receive the services and other assistance they need to achieve independence, productivity, and integration into the community.

The continued support of the programs under the Developmental Disabilities Act will be critical if we are to ensure the rights granted under the Americans with Disabilities Act, just signed into law by President Bush, are not gone to waste by a system that does not facilitate independence, productivity, and integration.

Finally, Mr. President, I want to thank my good friend from Iowa, the chairman of the Subcommittee on Disability Policy for all his efforts on this bill. The bill before us is the product of his many hours of hard work to secure a balanced and bipartism agreement that will move this program forward into the 21st century. I would also like to thank Representatives MADIGAN, WAXMAN, LENT, and TAUKE for their fine work on this bill.

Mr. President, I urge my colleagues to support H.R. 5679.

Mr. WIRTH. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

## THE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 962, 963, 964, 965, and 968, en bloc; that the bills be read for a third time and passed; that preambles, where appropriate, be agreed to; that statements be inserted in the RECORD at the appropriate place; that the motion to reconsider the passage of these bills and joint resolutions, en bloc, be laid upon the table; and that action on each bill appear separately in the RECORD.

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

## EXTENSION OF PATENT FOR THE BADGE OF THE AMERICAN LEGION

The bill (S. 615) providing for a 14-year extension of the patent for the badge of the American Legion, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 615

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 54,296 (for the badge of the American Legion) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

## EXTENSION OF PATENT FOR THE BADGE OF THE AMERICAN LEGION AUXILIARY

The bill (S. 616) providing for a 14-year extension of the patent for the badge of the American Legion Auxiliary, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 616

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 55,398 (for the badge of the American Legion Auxiliary) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

## EXTENSION OF PATENT FOR THE BADGE OF THE SONS OF THE AMERICAN LEGION

The bill (S. 617) providing for a 14 year extension of the patent for the Badge of the Sons of the American Legion, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 617

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

## ENCOURAGING NATIONAL LAW ENFORCEMENT COOPERATION

The bill (S. 2756) to encourage national law enforcement cooperation, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2756

*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 "National Law Enforcement Cooperation Act of 1990."

SEC. 2. FINDINGS.

The Congress finds that—

(1) cooperation among Federal, state, and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 Federal, state, and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system—

(A) is more than twenty years old;

(B) carries much greater volumes of enforcement information; and

(C) at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000", to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

(1) $17,000,000 for fiscal year 1991;

(2) $25,000,000 for fiscal year 1992;

(3) $22,000,000 for fiscal year 1993;

(4) $9,000,000 for fiscal year 1994; and

(5) such sums as may be necessary for fiscal year 1995.

SEC. 4. REPORT.

By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

Mr. BIDEN. Mr. President, today the Senate passed S. 2756, the National Law Enforcement Cooperation Act of 1990. This bill authorizes full funding for a new computer system—the National Crime Information Center [NCIC]—that is vital to law enforcement agencies across the country. Run by the FBI, the NCIC computer system contains national records on fugitives, stolen property and missing persons.

The importance of such a computer system is demonstrated each day in the law enforcement community.

More than 16,000 local, State and Federal law enforcement agencies are linked to the NCIC—system making it the single most important means of Federal/State cooperation in the fight against violent crime and drug trafficking.

In 1988 alone, NCIC helped to locate more than 130,000 fugitives, 33,000 missing persons, and more than $1.1 billion in stolen property.

And NCIC is more than just an important law enforcement tool. It is also a critical tool in protecting police officers in the streets. Every time an officer makes a routine traffic stop, the officer checks NCIC to see if the car might harbor a wanted or dangerous person.

Although NCIC is an essential component of the law enforcement community, it will not meet the needs of the law enforcement community into the next century unless the 20-year-old system is upgraded.

Fortunately the FBI has developed such a plan—the so-called NCIC 2000 project. NCIC 2000 calls for using state-of-the-art computer technology to upgrade the NCIC system. With these upgrades, police officers on the street would get more information, more quickly, with fewer mistakes. The results would be clear: more effective law enforcement, and fewer false arrests caused by faulty criminal history information.

This bill provides a 5-year, $78 million authorization that is needed to fully implement the NCIC 2000 project.

I thank my colleagues for their support of this critically needed law enforcement legislation.

## RELIEF OF SONANONG POONPIPAT (LATCH)

The bill (H.R. 2961) for the relief of Sonanong Poonpipat (Latch), was considered, ordered to a third reading, read the third time, and passed.

## COMPREHENSIVE MEDICAL DEVICE IMPROVEMENT ACT

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 953, S. 3006, a bill to make improvements in the regulation of medical devices.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3006) to amend the Federal Food, Drug and Cosmetic Act to make improvements in the regulation of medical devices, 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 has 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 "Comprehensive Medical Device Improvement Act of 1990".*

*SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.*

*Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).*

*SEC. 3. REVIEW OF SAFETY AND EFFECTIVENESS INFORMATION.*

*(a) REVIEW.—Section 510(k) (21 U.S.C. 360(k)) is amended—*

*(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;*

*(2) by inserting "(1)" after the subsection designation; and*

*(3) by adding at the end the following new paragraphs:*

*"(2)(A) The requirements of subparagraph (B) shall apply to a person who submits a notification in accordance with paragraph (1) for a device that the person claims is substantially equivalent to a marketed device—*

*"(i) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this paragraph;*

*"(ii) that is classified as a class III device in accordance with subsections (b) through (d) of section 513; and*

*"(iii) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).*

*"(B) A person described in subparagraph (A) shall—*

*"(i) prior to the submission of a notification in accordance with paragraph (1), conduct a reasonable search for, and review of, published and unpublished data available to the person concerning the safety and effectiveness of the marketed device and the device for which the notification is submitted, including all adverse safety and effectiveness data concerning the devices, except for data that has been submitted to the Secretary in accordance with section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and*

*"(ii) include in the notification a certification that the search and review was conducted and a citation to and summary of the data resulting from the search.*

*"(C) The Secretary may require the submission of any data described in the summary required by paragraph (B)(ii).".*

*SEC. 4. CLASSIFICATION OF DEVICES.*

*(a) CLASSIFICATION.—Section 513 (21 U.S.C. 360c) is amended—*

*(1) in subsection (a)(1)—*

*(A) in subparagraph (A)(ii), by striking "or to establish a performance standard" and inserting "or to establish an additional control or controls, as described in subparagraph (B)(ii),";*

*(B) by amending subparagraph (B) to read as follows:*

*"(B) CLASS II, ADDITIONAL CONTROLS.—A device—*

*"(i) that cannot be classified as a class I device because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device;*

*"(ii) for which there is sufficient information to establish an additional control or controls to provide the assurance, including—*

*"(I) promulgating a performance standard;*

*"(II) developing and disseminating a guideline, including a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k);*

*"(III) requiring the use of postmarket surveillance as appropriate in accordance with section 522; and*

"(IV) making a recommendation or taking other appropriate action considered necessary by the Secretary to provide reasonable assurance of the safety and effectiveness of the device; and

"(iii) for which it is necessary to establish an additional control or controls to provide reasonable assurance of the safety and effectiveness of the device;

except that for a device that is purported or represented to be for a use in supporting or sustaining human life, sufficient information must exist for the Secretary to identify and describe the provision of a performance standard to provide such assurance."; and

(C) in subparagraph (C)(i)(II), by striking "establishment of a performance standard" and inserting "establishment of an additional control, as described in subparagraph (B)(ii),"; and

(2) in subsection (f)—

(A) in paragraph (1), by inserting "the Secretary by order determines that" after "unless"; and

(B) in paragraph (2), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a".

(b) CONFORMING AMENDMENT.—Section 513(h)(1) is amended by inserting after "510" the following: "(except for a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k))".

SEC. 5. REVISION OF CLASSIFICATION FOR CERTAIN CLASS III DEVICES.

(a) REVISION OF CLASSIFICATION.—Section 513 (21 U.S.C. 360c) (as amended by section 4(b) of this Act) is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Revision of Classification

"(h)(1) The requirements established by order in accordance with paragraph (2) shall apply with respect to a device—

"(A) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this subsection;

"(B) that is classified as a class III device; and

"(C) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(2) Not later than 36 months after the date of enactment of this subsection, the Secretary—

"(A) shall by order require manufacturers of devices described in paragraph (1) to submit to the Secretary a citation to and summary of all published and unpublished data reasonably available to the manufacturer concerning the safety and effectiveness of the device, including any adverse safety and effectiveness data, except for information that has been submitted to the Secretary under section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(B) may require a manufacturer to submit any data described in the summary.

"(3) After the issuance of an order in accordance with paragraph (2)(A), but not later than 24 months after the issuance of the order, the Secretary shall publish in the Federal Register for each device covered by the order a notice of proposed rulemaking proposing to change the classification of the device to class II or to class I or to continue the classification of the device in class III.

"(4) In determining whether to revise the classification of a device or to continue the classification of the device in class III, the Secretary shall apply the criteria in section 513(a) to the information available when the device was initially classified and any new information made available since initial classification.

"(5) After considering any comments submitted in response to the notice of proposed rulemaking, the Secretary shall issue a final regulation changing the classification of the device or continuing the classification in class III. The Secretary shall publish in the Federal Register findings on the matters referred to in paragraph (4), a discussion of the comments received in response to the notice of proposed rulemaking, and the response of the Secretary to the comments. The Secretary shall publish the final regulation not earlier than 90 days, and not later than 12 months, after the date of publication of the notice of proposed rulemaking relating to the regulation.

"(6) A regulation issued in accordance with paragraph (5) is subject to judicial review in accordance with section 517.

"(7) Not later than 12 months after the effective date of any regulation issued in accordance with paragraph (5), the Secretary shall establish a schedule for the issuance of a regulation in accordance with section 515(b) requiring submission of a premarket approval application for each device that has been continued in class III.".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended—

(1) in subsection (a), by striking "The Secretary may" and inserting "If the Secretary determines that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of a class II device, the Secretary shall";

(2) by striking subsections (b) through (f);

(3) by redesignating subsection (g) as subsection (b);

(4) in subsection (b) (as redesignated), by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1)(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a device.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a device shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate and necessary to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate;

"(iii) invite interested persons to submit to the Secretary within 30 days of the publication of the notice, requests for changes in the classification of the device based on new information relevant to the classification; and

"(iv) invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to provide reasonable assurance of the safety and effectiveness of a device.

"(D) The Secretary shall provide for a comment period of no fewer than 60 days.

"(2) If, after publication of a notice in accordance with paragraph (1), the Secretary receives a request for a change in the classification of the device, the Secretary shall, within 60 days of the publication of the notice, consult with a classification panel described in the second sentence of section 513(e).".

(b) CONFORMING AMENDMENTS.—

(1) Section 514(b) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (3)(A), by striking "paragraph (2)" and inserting "paragraph (1)"; and

(B) in paragraph (4)(A), by striking "paragraphs (2) and (3)(B)" and inserting "paragraphs (1), (2), and (3)(B)".

(2) Section 517(a)(3) (21 U.S.C. 360g(a)(3)) is amended by striking "514(b)(2) or".

(3) Section 520(i) (21 U.S.C. 360j(i)) is amended by striking "514(g)(5)(B)" and inserting "514(b)(5)(B)".

SEC. 7. SUSPENSION OF APPROVAL OF APPLICATION.

Section 515(e) (21 U.S.C. 360e(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may by order suspend the approval of an application approved under this section if the Secretary determines that there is a reasonable probability that the continued distribution of a device under the application would cause serious, adverse health consequences or death.

"(B) Not less than 10 days prior to the issuance of a suspension order under subparagraph (A), the Secretary shall issue a notice that the Secretary shall provide the holder of the application for the device with an opportunity for an informal hearing to determine whether to issue the order.

"(C) Not more than 10 days after the hearing described in subparagraph (B), the Secretary shall issue a suspension order or determine that the order should not be issued.

"(D) Not more than 20 days after the issuance of the suspension order, the Secretary shall issue a notice initiating the process of withdrawal of approval of the application, as described in paragraphs (1) and (2). If the Secretary does not issue the notice within the specified time frame, the suspension order shall be deemed to be vacated.".

SEC. 8. JUDICIAL REVIEW.

Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) by striking "or" at the end of paragraph (6); and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) the issuance of a regulation under section 513(h), or

"(9) the issuance of an order under section 513(f)(1) or an order effectuating the classification required under 520(l)(1)(D).".

SEC. 9. EMERGENCY RECALL AUTHORITY.

Section 518 (21 U.S.C. 360h) is amended by adding at the end the following new subsection:

"Emergency Recall Authority

"(e)(1) If the Secretary finds that there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, the Secretary shall issue a recall order. The order shall require the appropriate party or parties (including the manufacturers, importers, distributors, or retailers of the device) to immediately cease any distribution of the device and, thereafter, recall the device from commercial distribution.

"(2)(A) The order issued under paragraph (1) shall include recall of devices from hospitals and other health care institutions, unless the Secretary determines that the risk of recalling the device from the facilities presents a greater health risk than not recalling the device from use.

"(B) For devices subject to an order issued under paragraph (1), and in lieu of including individuals within the recall order, the Secretary shall order a notification under subsection (a) regarding the risks associated with the continued use of the device to individuals or, when appropriate, the health professionals who prescribed the device for the use of the individuals.

"(3) Not later than 10 days after the issuance of a recall order, the Secretary shall provide the party or parties to whom the order is directed with the opportunity for an informal hearing to determine whether the order shall be affirmed or vacated.

"(4) If, after providing an opportunity for an informal hearing, the Secretary determines that the recall order was properly issued, the order shall remain in effect. The order shall specify a timetable in which the device recall will occur, and shall require periodic reports to the Secretary describing the progress of the recall effort.

"(5) If, after providing an opportunity for an informal hearing, the Secretary determines that inadequate grounds exist to support the order issued under paragraph (1), the Secretary shall vacate the order.

"(6) A party to whom the recall order is issued shall—

"(i) remedy the causes that resulted in the issuance of the order;

"(ii) complete the recall in accordance with the order; and

"(iii) submit a report to the Secretary demonstrating compliance with the order.

"(7) After fulfilling the requirements of paragraph (6), a party to whom the recall order is issued may petition the Secretary to vacate the order. The petition shall state the basis for vacating the order.

"(8) The Secretary shall respond to the petition described in paragraph (7) not later than 30 days after the receipt of the petition. If the Secretary finds that the party to whom the recall order was issued has fulfilled the requirements of paragraph (6) and that the device may be distributed in interstate commerce, the Secretary shall vacate the order.

"(9) The remedy provided by this subsection shall be in addition to those provided by subsections (a), (b), and (c).".

SEC. 10. USER REPORTS.

(a) REQUIREMENT.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)(3), by inserting before the semicolon the following: "and shall require distributors who submit the reports to submit copies of the reports to the manufacturer of the device for which the report was made";

(2) by adding at the end the following new subsections:

"Inclusion of Distributors

"(c) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall amend the regulations promulgated under this section to require distributors of medical devices to establish and maintain records and make reports under this section. In amending the regulations, the Secretary may exempt classes of distributors from whom reports are not necessary for the protection of the public health.

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that the manufacturer, importer, or distributor—

"(1) did not file any report; or

"(2) did file a certain number of the reports.

"User Reports

"(e)(1) As used in this subsection:

"(A) The terms 'facility' and 'medical device user facility' mean a hospital, nursing home, or ambulatory surgical facility.

"(B) The terms 'serious illness' and 'serious injury' mean illness or injury, respectively, that is unanticipated and—

"(i) is life threatening;

"(ii) results in permanent impairment of a body function or permanent damage to a body structure; or

"(iii) necessitates immediate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

"(2) If a medical device user facility becomes aware of information that reasonably suggests that a medical device has caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 15 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(3) If a medical device user facility becomes aware of information that reasonably suggests that a medical device has caused or contributed to a serious illness or serious injury to a patient of the facility, the facility shall, as soon as practicable, but not later than 15 working days after becoming aware of the information, report the information to the manufacturer of the device. If the facility is unable to determine the identity of the manufacturer of the device, the facility shall send a report of the information to the Secretary.

"(4) For purposes of paragraphs (2) and (3), a medical device user facility shall be treated as having received or otherwise become aware of information with respect to a medical device of the facility when appropriate medical personnel employed by or otherwise affiliated with the facility receive or otherwise become aware of information with respect to the device in the course of the duties of the individual.

"(5)(A) Except as provided in subparagraph (B), the Secretary may not disclose the identity of a facility that makes a report in accordance with paragraph (2) or (3)—

"(i) except in connection with an action brought to enforce section 301(q);

"(ii) except in connection with a communication to a manufacturer of a device that is the subject of a report in accordance with paragraph (2) or (3); or

"(iii) unless required to be disclosed in accordance with subsection (a).

"(B) This paragraph shall not authorize the Secretary to withhold the identity of a facility making a report in accordance with paragraph (2), or any information in the report, from duly authorized committees and subcommittees of Congress.

"(6)(A) No report made in accordance with paragraph (2) or (3) by a person described in subparagraph (B) shall be admitted into evidence in any civil action involving private parties unless the person had knowledge of the falsity of the information contained in the report.

"(B) As used in subparagraph (A), the term 'person' means—

"(i) a medical device user facility;

"(ii) one of the appropriate medical personnel employed by or otherwise affiliated with the facility; or

"(iii) a physician who is not required to make a report in accordance with paragraph (2) or (3).

"(7) The obligation of a medical device user facility to make a report in accordance with paragraph (2) or (3) shall not affect the obligation of the manufacturer of the device who receives the information to file a report concerning the device as required under subsection (a).

"User Education

"(f)(1) During the 1-year period beginning on the date of enactment of this subsection, the Secretary may award grants to eligible entities to establish public education programs for hospitals, ambulatory surgical facilities, and nursing homes concerning the user reporting requirements set forth in subsection (e).

"(2) In awarding grants in accordance with paragraph (1), the Secretary shall give priority to entities to submit proposals that demonstrate—

"(A) a need for user education among hospitals, ambulatory surgical facilities, and nursing homes regarding a generic category of medical device; and

"(B) the ability to adequately perform the proposed educational program.

"(3) In order to receive a grant in accordance with paragraph (1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require. At a minimum, the application shall contain—

"(A) a description of the proposed public education program;

"(B) the qualifications and experience of the entity to carry out the program; and

"(C) the need for user education among persons to be served by the entity regarding a generic category of medical device.

"(4) The Secretary shall by regulation specify the qualifications for an entity to receive a grant in accordance with paragraph (1).

"(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 1991 through 1993.".

(b) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), not later than 12 months after the date of enactment of this Act. In promulgating the regulations, the Secretary shall minimize the administrative burdens on medical device user facilities consistent with the need to assure adequate information.

(c) REPORT TO CONGRESS.—Not later than 36 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains an evaluation of the requirements of section 519(e) of the Federal Food, Drug, and Cosmetic Act. In preparing the report, the Secretary shall consult with individuals and organizations with an interest in health care and consumer issues. At a minimum, the report shall contain—

(1) an evaluation of the safety benefits of the requirements;

(2) an evaluation of the burdens placed on the Food and Drug Administration and on medical device user facilities by the requirements;

(3) an evaluation of the cost-effectiveness of the requirements; and

(4) recommendations for legislative reform.

(d) EFFECTIVE DATE.—Section 519(e) of the Federal Food, Drug, and Cosmetic Act shall become effective on the earlier of—

(1) the effective date of regulations promulgated in accordance with subsection (b); or

(2) the date that is 12 months after the date of enactment of this Act.

SEC. 11. REPORTS OF REMOVALS AND CORRECTIVE ACTIONS.

Section 519 (21 U.S.C. 360i) (as amended by section 10 of this Act) is further amended by adding at the end the following new subsection:

"Reports of Removals and Corrective Actions

"(g)(1)(A) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or corrective action of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or corrective action was undertaken to—

"(i) eliminate a significant risk to health caused by the device; or

"(ii) remedy a violation of this Act caused by the device which may present a risk to health.

"(B) A manufacturer, importer, or distributor of a device who undertakes a corrective action or removal of a device that is not required to be reported under subparagraph (A) shall keep a record of the corrective action or removal.

"(2) No report of the corrective action or removal of a device may be required under paragraph (1) if a report of the corrective action or removal is otherwise required under this Act, or the corrective action or removal was initiated at the request of the Secretary, and a report has been submitted to the agency.

"(3) For purposes of paragraphs (1) and (2), the terms 'corrective action' and 'removal' do not include routine servicing.".

SEC. 12. USE OF PREMARKET APPROVAL DATA.

Section 520 (21 U.S.C. 360j) is amended—

(1) in subsection (c)—

(A) by striking "under section 513 from class III to class II" and inserting "from class III to class II or class I"; and

(B) by inserting "in accordance with subsection (h) and" after "reclassified from class III to class II, except,"; and

(2) in subsection (h)—

(A) in paragraph (3), by striking "Any" and inserting "Except as provided in paragraph (4), any"; and

(B) by adding at the end the following new paragraph:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies, but excluding descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available 1 year after the original application for the fourth device of a kind has been approved by the Secretary, for use by the Secretary in approving devices, or determining whether a product development protocol has been completed, under section 515, establishing a performance standard under section 514, and reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2). The Secretary shall deem devices that incorporate the same technologies, have the same principles of operation, and are intended for the same use or uses to be within a kind of device.

"(B) The Secretary, contemporaneously with the approval of the fourth device of a kind, shall publish a notice in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in premarket approval applications for the devices will be available to the Secretary for use, as described in subparagraph (A). For each device described in subparagraph (D)(i)(I), the Secretary shall publish a notice in the Federal Register setting forth the date, which shall be not earlier than 1 year after the date of notice, that data identified in subparagraph (A) shall be available for the use of the Secretary.

"(C) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for—

(i) approving devices, or determining whether a product development protocol has been completed, under section 515;

(ii) establishing a performance standard under section 514; and

(iii) reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2).

"(D)(i) This paragraph shall become effective—

"(I) upon the date of the enactment of the paragraph, for devices approved under section 515, where four devices of a kind were approved on or before December 31, 1987; and

"(II) 24 months after the date of the enactment of the paragraph, for devices not included within the scope of subclause (I) that are subject to a premarket approval requirement under section 515.

"(ii) For each device described in subparagraph (D)(i)(II) for which the original application for a fourth device of a kind is approved by the Secretary before the 24-month delayed effective date described in subparagraph (D)(i)(II), the 24-month delayed effective date shall be deemed to be the approval date for the fourth device of a kind.

"(E) The approval date of a device, for purposes of this paragraph, shall be the date of the letter of the Secretary to the applicant approving a device under section 515, and permitting the applicant to commercially distribute the device.".

SEC. 13. TRACEABILITY.

Section 520(j) (21 U.S.C. 360j(j)) is amended to read as follows:

"Traceability Requirements

"(j)(1) The Secretary shall, not later than 1 year after the date of enactment of this subsection, determine which devices should be subject to a requirement of labeling, or coding, or identification by any other means, that is necessary to ensure that the device may be traced from the place of manufacture of the device or initial distribution to the ultimate user of the device, from among devices that—

"(A) are permanent implants;

"(B) are purported or represented to be for use in supporting or sustaining human life; or

"(C) present a potential unreasonable risk of illness or injury.

"(2) Not later than 2 years after the date of enactment of this subsection, the Secretary shall by regulation require the manufacturers, importers, and distributors of the devices that are described in paragraph (1) to establish the means by which the devices will be traced to the ultimate user.".

SEC. 14. REVISION OF CLASSIFICATION FOR DEVICES REGULATED AS NEW DRUGS OR ANTIBIOTIC DRUGS.

(a) IN GENERAL.—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) in subparagraph (A) (as designated by paragraph (1), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall publish a notice in the Federal Register with respect to devices that are subject to regulation pursuant to this subsection. The notice shall state whether each device shall remain in class III or be reviewed for classification into class I or II. The notice shall also require the manufacturer of a device that the Secretary intends to classify into class I or II to submit to the Secretary a description of and citation to any adverse safety and effectiveness information not submitted under section 519(a) of this Act and section 803 of title 21, Code of Federal Regulations. The Secretary may require a manufacturer to submit the adverse safety and effectiveness information for which a description and citation were submitted to the Secretary.

"(ii) After the issuance of the notice under clause (i), and following consultation with appropriate advisory panels in accordance with subsections (b) through (d) of section 513, but before the expiration of the 1-year period beginning on the date of enactment of this subparagraph, the Secretary shall publish a proposed regulation in the Federal Register classifying each device into class I or II, or providing that each device shall remain in class III. The data furnished by manufacturers in accordance with clause (i), in combination with the advice and recommendation of appropriate advisory panels shall, for purposes of this Act, serve as a basis for satisfying the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii), and shall serve as a basis for the proposed regulation required under this subparagraph.

"(iii) Following a review of comments received on the proposed regulation issued in accordance with clause (ii), and before the expiration of the 1-year period referred to in clause (ii), the Secretary shall promulgate a final regulation prescribing the classification of all devices regulated under this subsection on the date of enactment of this subparagraph. No regulation issued under this subparagraph requiring a device to remain in class III or classifying the device as class I or II may take effect before the expiration of 90 days from the date of the publication of the regulation in the Federal Register.

"(iv) The Secretary may by notice in the Federal Register extend the 1-year period prescribed by clauses (ii) and (iii) for a device for an additional period not to exceed 1 year.

"(v) Notwithstanding any other provision of this subsection, the Secretary shall not retain any daily wear nonhydrophilic plastic contact lens in class III unless the Secretary finds that it meets the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii). The finding, and the grounds for the finding, shall be published

in the Federal Register. If during the 1-year period beginning on the date of enactment of this subparagraph, the Secretary has not made the finding and issued the notice required by this clause, the Secretary shall issue an order placing the lens in class II.

"(vi) Actions taken under this subparagraph shall not interfere with any pending reclassification action. Any device for which a reclassification petition was pending on January 1, 1989, shall not be included in the list published under clause (i).".

(b) CONFORMING AMENDMENT.—Section 520(l)(1) is amended—

(1) by inserting "on the initiative of the Secretary or" after "Secretary"; and

(2) by striking "paragraph (2)" and inserting "paragraph (2)(A)".

SEC. 15. SUBSTANTIAL EQUIVALENCE.

Section 520 (21 U.S.C. 360j) is amended by adding at the end the following new subsection:

"Substantial Equivalence

"(m)(1) For purposes of determinations of substantial equivalence under this subchapter—

"(A) The term 'different technological characteristics' means, with respect to a device being compared to a predicate device, that there is a significant change in the materials, design, energy source, or other features of the device from those of the predicate device.

"(B) The term 'substantially equivalent' or 'substantial equivalence' means, with respect to a device being compared to a predicate device, that the device has the same intended use as the predicate device and—

"(i) has the same technological features as the predicate device; or

"(ii) has different technological features and the evidence submitted that the device is substantially equivalent to the predicate device contains information, including clinical data, if required, that demonstrates that the device is as safe and effective as a marketed device.

"(2) A device may not be found to be substantially equivalent to a predicate device that has been removed from the market at the initiative of the Secretary or that has been determined to be misbranded or adulterated by a judicial order.

"(3) The Secretary shall promulgate regulations under which a manufacturer seeking a determination of substantial equivalence may be required to prepare a summary of any clinical data required (including information respecting any adverse effects of the device on health) if the Secretary determines that clinical data must be submitted in accordance with paragraph (1)(B)(ii), and establishing a standard format for the summary. The Secretary shall make the summary available to the public within 30 days of the issuance of a determination of substantial equivalence.".

SEC. 16. HUMANITARIAN DEVICE EXEMPTION.

Section 520 (21 U.S.C. 360j) (as amended by section 15 of this Act) is further amended by adding at the end the following new subsection:

"Humanitarian Devices

"(n)(1) It is the purpose of this subsection to encourage the discovery of devices intended to benefit patients in the treatment or diagnosis of rare diseases or conditions, to the extent consistent with the protection of the public health and safety and with ethical standards.

"(2) As used in this subsection, the term 'rare disease or condition' means any disease or condition that affects fewer than 8,000 persons in the United States. Determinations under the previous sentence with respect to any device shall be made on the basis of the facts and circumstances as of the date of submission of an application under paragraph (3).

"(3) Not later than 8 months after the date of enactment of this subsection, the Secretary shall promulgate regulations prescribing procedures and conditions under which persons may on application be granted an exemption for devices from the effectiveness requirements of section 502, 514, 515, 516, 519, or 706, or subsection (e) or (f) of this section, to permit the use of the devices by physicians in the treatment of patients afflicted by a rare disease or condition.

"(4) In promulgating regulations under paragraph (3), the Secretary may prescribe procedures and conditions under which an exemption may be granted for a device if—

"(A) the device is likely to provide a significant benefit to a patient in the treatment or diagnosis of a disease or condition, or a significant benefit to the patient in quality of life;

"(B) the device is used—

"(i) in the treatment or diagnosis of a rare disease or condition and cannot reasonably be expected to be available absent the exemption; or

"(ii) the patient population affected by the disease or condition is not sufficient to conduct clinical trials of the effectiveness of the device; and

"(C) the Secretary determines that the probable benefit to health from the use of the device outweighs the risk of injury or illness from the use and the probable risks and benefits of currently available devices or alternative forms of treatment.

"(5) Devices granted an exemption under this subsection shall only be used—

"(A) in facilities that have established, in accordance with regulations of the Secretary, a local institutional review committee to supervise clinical testing of devices in the facilities; and

"(B) if, prior to the use of a device, an institutional review committee approves the use in the treatment or diagnosis of a specific rare disease or condition.".

SEC. 17. POSTMARKET SURVEILLANCE.

The Act is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) IN GENERAL.—

"(1) REQUIRED SURVEILLANCE.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that—

"(A) is a permanent implant the failure of which may cause serious, adverse health consequences or death;

"(B) is intended for a use in supporting or sustaining human life; or

"(C) presents potential for serious risk to human health.

"(2) DISCRETIONARY SURVEILLANCE.—The Secretary may require a manufacturer to conduct postmarket surveillance for a device if the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) REGULATIONS.—The Secretary shall issue regulations implementing the requirements of this section not later than 1 year after the date of enactment of this section.

"(c) SURVEILLANCE PERIOD.—The Secretary may determine the period of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health or to evaluate the safety or effectiveness of the device. In no event may a surveillance period be imposed in accordance with this section without a termination date.

"(d) CONTRACTS.—

"(1) IN GENERAL.—The manufacturer of a device for which postmarket surveillance is required in accordance with subsection (a) shall contract with a qualified academic medical center, or a representative number of qualified academic medical centers in representative locations, to provide for any monitoring of clinical experience that may be required in accordance with this section.

"(2) LACK OF QUALIFIED ACADEMIC MEDICAL CENTER.—If no academic medical center has the qualifications and experience to conduct adequate monitoring of clinical experience in accordance with this section, a manufacturer shall contract with a qualified medical center or with a representative number of qualified medical centers in representative locations to provide the monitoring.

"(3) NUMBER AND IDENTITY.—The manufacturer shall determine, and obtain the approval of the Secretary regarding, the number and identity of the center or centers that will perform surveillance in accordance with this section and the manner of surveillance.

"(e) APPLICATION.—This section shall apply only to devices that are first distributed in interstate commerce after the date of enactment of this section.".

SEC. 18. ESTABLISHMENT OF THE OFFICE OF INTERNATIONAL RELATIONS.

Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary may enter into agreements with foreign governments, which agreements specify that devices of either country that are manufactured in accordance with rules and regulations for device manufacture under this Act are suitable for commercial distribution.

"(2) In entering into the agreements described in paragraph (1), the Secretary shall encourage the mutual recognition of—

"(A) good manufacturing practice regulations promulgated under section 520(f)(1)(A); and

"(B) other rules, regulations, and testing protocols as the Secretary determines to be appropriate.

"(3) The Secretary shall establish an Office of International Relations that shall plan and initiate programs for the recognition of devices in accordance with paragraph (1).

"(4) The Secretary may issue regulations to carry out this subsection.

"(5) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the activities of the Office of International Relations.".

SEC. 19. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended—

(1) in subsection (g)(1), by striking "; but does not include devices or their components, parts, or accessories"; and

(2) in the language following paragraph (3) of subsection (h), by striking "any of its principal" and inserting "its primary".

SEC. 20. REVIEW OF MARKET APPLICATIONS FOR ARTICLES COMPRISING COMBINATIONS OF DRUGS, DEVICES, AND BIOLOGICS.

Section 503 (21 U.S.C. 353) is amended—

(1) by striking the section heading and inserting the following:

*"EXEMPTIONS AND CONSIDERATION FOR CERTAIN DRUGS, DEVICES, AND BIOLOGICAL PRODUCTS";*

*and*

*(2) by adding at the end the following new subsection:*

*"(f)(1) The Secretary shall designate a component of the Food and Drug Administration to regulate products that constitute a combination of a drug, device, or biological product. The Secretary shall determine the primary mode of action of the combination product. If the Secretary determines that the primary mode of action is that of—*

*"(A) a drug (other than a biological product), the persons charged with premarket review of drugs shall have primary jurisdiction;*

*"(B) a device, the persons charged with premarket review of devices shall have primary jurisdiction; or*

*"(C) a biological product, the persons charged with premarket review of biological products shall have primary jurisdiction.*

*"(2) Nothing in this subsection shall prevent the Secretary from using any agency resources of the Food and Drug Administration necessary to ensure adequate review of the safety, effectiveness, or substantial equivalence of an article.*

*"(3) The Secretary shall promulgate regulations to implement market approval procedures in accordance with paragraphs (1) and (2) not later than 1 year after the date of enactment of this subsection.*

*"(4) As used in this subsection:*

*"(A) The term 'biological product' has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).*

*"(B) The term 'market clearance' includes—*

*"(i) approval of an application under section 505, 507, 515, or 520(g);*

*"(ii) a finding of substantial equivalence under this subchapter; and*

*"(iii) approval of a product or establishment license under subsection (a) or (d) of section 351 of the Public Health Service Act (42 U.S.C. 262).".*

*SEC. 21. NEW DRUG APPROVAL.*

*Section 505(j) (21 U.S.C. 355) is amended by adding after paragraph (7) the following new paragraph:*

*"(8) The Secretary may not approve an abbreviated application for new drug approval under this subsection for a period of 10 years from the date of the approval of the listed drug, if the listed drug—*

*"(A) is an anti-inflammatory, non-steroidal drug; and*

*"(B) is a drug for which an application under subsection (b) was submitted on or before March 29, 1982, and approved on or after October 31, 1988.".*

*SEC. 22. PATENTS.*

*Section 156 of title 35, United States Code, is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (2), by inserting ", except as otherwise provided in subsection (i)" after "extended"; and*

*(B) in the second sentence, by inserting ", and in subsection (i)", after "and (5)"; and*

*(2) by adding at the end the following new subsection:*

*"(i)(1) Notwithstanding the provisions of subsection (a)(2), if a claim or claims of any patent on an invention that was conceived or reduced to practice substantially in the performance of work at a nonprofit organization cover more than one product, or a method of using or manufacturing more than one product, that is subject to a regulatory review period before the commercial marketing or use of the product, the claim or claims may be separately extended as to each of the products in accordance with this section.*

*"(2) In no event may any extensions granted under this subsection extend the term of a patent claim in respect of a product other than a product for which extension is sought.*

*"(3) As used in this subsection, the term 'nonprofit organization' has the meaning given the term in section 201(i).".*

AMENDMENT NO. 2975

(Purpose: To make a substitute amendment)

Mr. WIRTH. Mr. President, I send a substitute amendment to the desk on behalf of Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for Mr. KENNEDY, proposes an amendment numbered 2975.

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

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I urge the Senate to pass the Comprehensive Medical Device Improvement Act of 1990. This bill represents a dramatic contribution to the public health.

The goals of the bill are straightforward, yet critical to the protection of the public health. They are to ensure: First, that all medical devices entering the market are safe and effective; second, that problems with devices are identified quickly; third, that defective devices are taken off the market as soon as possible; and fourth, that growth and innovation in the medical device field continue.

This legislation builds upon the Medical Device Amendments of 1976, by improving the device classification and approval process, and by increasing the monitoring of safety and effectiveness after devices have cleared the FDA and are available to the public. This bill will give consumers added assurance that medical devices are safe and effective, and the industry will benefit from more consistent and streamlined regulation.

This legislation reflects the efforts of two Senators in particular—Senator DODD and Senator HATCH, whose impressive work has made this measure a reality. In addition, I want to acknowledge the valuable contributions of Senator COATS and Senator DURENBERGER.

Enactment of this legislation has also been facilitated by the active assistance of consumer groups, the FDA, and the medical device industry. As a result, the bill strikes an appropriate balance between the legitimate interests of all these parties.

The bill clarifies the scope of FDA's authority to make a finding that a new device is substantially equivalent to a device already on the market. Such findings result in the marketing of over 95 percent of new devices, and this clarification is long overdue.

The legislation improves the current classification and reclassification systems to permit more efficient regulation, and to allow more FDA resources to be directed to the review of devices which present the greatest benefits or risks.

The bill eases the current prohibition against FDA's use of data on one device to approve or reclassify other devices. The prohibition is excessively restrictive, and causes inefficient use of FDA resources.

The bill creates an early warning system that will, for the first time, require reports from hospitals and other health care facilities about serious injuries or deaths that may have been caused by medical devices.

The bill provides mandatory clinical monitoring, immediately after market introduction, of certain devices that may pose substantial risks.

Finally, the legislation contains several provisions, such as emergency recall authority, to assure that unsafe devices are quickly identified by FDA and appropriately modified or removed from the market.

S. 3006 enhances regulatory efficiency while providing greater assurances to the American people that medical devices are safe and effective. It encourages technological innovation while providing improved protections for public health. The House of Representatives has recently enacted similar legislation, and I urge the Senate to approve this bill, so that it can go to conference and be signed into law before the Congress adjourns.

Mr. DODD. Mr. President, I rise to express my strong support for S. 3006, the Comprehensive Medical Device Improvement Act of 1990.

Mr. President, I have been pleased to work with Senator KENNEDY, the chairman of the Committee on Labor and Human Resources, and Senators COATS, DURENBERGER, and HATCH to bring this important and significant legislation to the floor for consideration by the full Senate. I want to especially commend Senator KENNEDY and his staff for their outstanding work on this legislation. I am particularly pleased that the legislation we are considering today is the bill I offered in committee as an amendment in the nature of a substitute.

The purpose of the bill before us is to improve the Medical Device Amendments of 1976. The medical device amendments formally initiated the regulation of an ever-growing medical device industry. The 1976 amendments require the Food and Drug Adminis-

tration to regulate medical devices and ensure their safety and effectiveness.

Our legislation is intended to provide a balanced and comprehensive regulatory scheme intended to: First, protect the public against unsafe or ineffective new devices gaining entry to the market; second, assure that health practitioners can be confident about the medical equipment they use or prescribe for their patients; and third, guard against excessive governmental restrictions which might inhibit innovation in the development and advancement of biomedical products.

The legislation will streamline the approval process for bringing medical devices to market, will create improved procedures for monitoring devices that fail to work as intended, and will make it easier for dangerous devices to be recalled if shown to be defective.

The bill also will spur development of new medical technologies so that both our health care system and our medical device industry retain their status as world leaders.

Mr. President, the Comprehensive Medical Device Improvement Act of 1990 will improve the regulatory scheme for medical devices and will ensure continued public access to safe, effective, high-quality medical devices. I urge my colleagues to support it.

Mr. COATS. Mr. President, I am pleased to support the committee substitute to S. 3006, the Comprehensive Medical Device Improvement Act of 1990, that is before us today. I am an original cosponsor of S. 3006, and the changes that have been incorporated in this substitute have made a good bill even better. I would like to commend Senator KENNEDY and Senator HATCH, the chairman and the ranking Republican member of the Labor and Human Resources Committee, for moving this bill through the Labor Committee quickly and giving all the original cosponsors the opportunity to work as a team in perfecting the original draft.

My objective many months ago in joining Senator KENNEDY, Senator DODD, Senator HATCH, and Senator DURENBERGER, the other original cosponsors of this bill, was to fashion a bill that would speed the movement of innovative devices to the market and enhance public confidence in the safety and effectiveness of all medical devices. There is no doubt in my mind that S. 3006 achieves these goals.

I have had the opportunity to tour a number of medical device plants in Indiana and see products that are revolutionizing the practice of medicine and patient care. These companies are making artificial joints, pocket-sized devices that allow diabetics to monitor their own blood sugar levels, and instruments that enable surgeons to remove gall bladders and ovarian cysts without the large incisions, lengthy operations, and protracted hospital stays that used to be unavoidable.

In this bill we are striking a balance between the need to ensure that innovative devices are properly designed and tested, and the need to have them available as soon as possible for the patients who need them. S. 3006 codifies the expedited process that is used most often to approve new devices. In time, the procedure used for devices that present a brandnew technology or a higher risk will be accelerated by a change that will allow FDA investigators to use clinical data on like products already in their files to evaluate new products seeking approval.

Equally important are the provisions that give the Secretary of Health and Human Services additional authority to monitor a product after it has been approved to ensure that it performs correctly. No matter how carefully a device is reviewed in the approval process there are limits on what can be learned. Devices used in the approval process are custom made, the physicians using them in clinical trials are chosen for their expertise, and the patients used in clinical studies are selected to increase the chances of positive results. There is nothing wrong with this. In fact, the clinical trial procedure is in the best interest of all parties.

However, there is a big difference between a custom-made device used in the approval process and a mass-produced device that is sold nationwide. Currently, the Secretary has, by regulation, established a reporting system that requires manufacturers to report malfunctions of devices as well as deaths and serious injuries caused by these devices. The Secretary also has established good manufacturing practices that assist companies in maintaining high-quality production standards.

The bill we are considering today expands the range of information the Secretary will have to evaluate products that require closer scrutiny. A means to trace certain devices, like those used to sustain or support human life, from the manufacturer to the ultimate user will be developed within 2 years of the date of enactment of the bill. Postmarket surveillance will be conducted for an appropriate period of time on similar devices so that deviations from expected performance can be recognized as soon as possible. In the event that circumstances warrant, S. 3006 gives the Secretary of HHS the authority to recall a device.

The combination of a streamlined approval process and broader authority to gather information on marketed devices in this bill, will put the Secretary in a much better position to meet the challenge of approving and monitoring the increasing number of new products that are being developed. The American medical device industry is a world leader and the changes to the 1976 law contained in S. 3006 make the opportunity for continued leadership much greater.

I would like to thank my fellow cosponsors for accepting my suggestion that S. 3006 include a humanitarian device exemption. This provision will encourage companies to develop devices for people with rare conditions. Rare conditions are defined in this bill as those that affect no more than 8,000 patients. Often, the number is much smaller than that. There is little or no prospect of meeting research and development costs for these products, but the manufacturers with whom I have spoken are not concerned about making a profit. They would manufacture these devices if the regulatory process could be adjusted to make the standards and the timeframe for approval more flexible.

The humanitarian device exemption clears the way for those companies who would like to develop devices for rare diseases. This exemption provides sufficient latitude to the Secretary of HHS to approve a device that would give a significant benefit to the patient in quality of life providing that the probable benefit outweighs the risk. In my judgment, it is important that the Secretary, in determining the risk, consider the comparative risk of any alternative treatment.

I urge my colleagues to join me in voting for S. 3006. We must not delay making these improvements to the medical device law that hold so much promise for the patients who depend on these devices.

AMENDMENT NO 2976 TO AMENDMENT NO. 2975

Mr. WIRTH. Mr. President, on behalf of Senator INOUYE, I send to the desk an amendment to the amendment of the Senator from Massachusetts [Mr. KENNEDY].

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for Mr. INOUYE, proposed an amendment numbered 2976 to amendment No. 2975.

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

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

At the end of the amendment add the following:

SECTION 1. AWARDING OF GRANT TO GEORGE WASHINGTON UNIVERSITY.

(a) AUTHORITY.—There are authorized to be appropriated $50,000,000 to enable the Secretary of Health and Human Services to award a grant for the construction or renovation of a medical facility at the George Washington University to be utilized as a National Emergency Care Center.

(b) NON-FEDERAL CONTRIBUTIONS.—The Secretary of Health and Human Services

shall not make a grant under subsection (a) unless the intended recipient of the grant provides assurances satisfactory to such Secretary that such recipient will make available (directly or through donations from public or private entities) non-Federal contributions equal to the amount of the grant provided under such subsection.

Mr. INOUYE. Mr. President, I am most pleased to offer an amendment today that would authorize $50 million for the renovation and construction of a national emergency care center at George Washington University. Mr. President, George Washington University Hospital has a long and distinguished history of providing the highest quality of health care for those of us in our Nation's Capital. Their emergency room is always on standby for visiting dignitaries from other nations and is of critical importance to the White House itself. Each year over 50,000 patients are seen in the emergency room. Last year alone, over 3,400 wound patients were treated, 80 percent of these individuals from minority families in the area.

Mr. President, George Washington University is currently providing in excess of $30 million annually of uncompensated medical care. Back in the mid-1970's, the university received annual support from the Federal Government for each of the medical students that they were training, but this is no longer the case. Instead, we have asked this outstanding educational institution to bear the burden of continuing to contribute significantly to the very quality of life of our Nation's Capital.

The current George Washington University Hospital was built in 1948 and is badly in need of repair. The university expects their new facility to cost in excess of $150 million, two-thirds of which President Trachtenberg expects to be able to raise from the private sector. With the enactment of this authorization, I would hope to be able to convince my colleagues on the District of Columbia Appropriations Subcommittee of the importance to all of us of the Federal Government providing its fair share to maintaining ready access to the highest quality of health care to the District's citizens.

Mr. President, if George Washington University is forced for economic reasons to have to close the doors of their medical center, and in particular, their emergency room, all of us will suffer. George Washington University is an integral component of the District's health delivery system; without its clinical expertise and patient bed capacity, we will be in dire straits. Each year, George Washington University Hospital provides over 137,000 bed days of care—many of these for the homeless and destitute in our Nation's Capital. We simply cannot allow this important national resource to perish.

Mr. President, I would also like to take this opportunity to express my deepest appreciation for the assistance and support of my colleague, Senator KENNEDY, the chairman of the Labor and Human Resources Committee, and Senator HATCH, the committee's ranking minority member. Without their counsel, we would not be able to address this pressing national concern today.

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

The amendment (No. 2976) was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment No. 2975, as amended.

The amendment (No. 2975), as amended, 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 amendment in the nature of a substitute, as amended.

The 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.

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate now proceed to the House companion H.R. 3095; that all after the enacting clause be striken; that the text of S. 3006, as amended, be substituted in lieu thereof; that the bill be read a third time and passed and the motion to reconsider be laid upon the table.

I further ask unanimous consent that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees.

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

## MEASURE RETURNED TO CALENDAR—S. 3006

Mr. WIRTH. Mr. President, I ask unanimous consent that Calendar No. 953, S. 3006, be returned to the Calendar.

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

## WORKING TOGETHER

Mr. WIRTH. Mr. President, does the distinguished acting Republican leader have any further business?

Mr. ARMSTRONG. Mr. President, I do have some additional business. I want to address the Senate, but other than that as far as I know, the wrap-up is complete from our side.

Mr. WIRTH. I wanted to make one comment if I might then for the record. I believe that this is the first time that the senior Senator from Colorado and the junior Senator from Colorado have had the privilege of acting together on behalf of the whole of the Senate. I wanted our constituents to know that this particular cooperative endeavor of the last few minutes, I believe, is a reflection of the efforts that both of us have made over the last 4 years. Mr. President, I commend my colleague, the distinguished senior Senator, and once again note that he and I while we have from time to time disagreed on various issues of substance, have made an effort to make the process work and continue to bring people from disparate points of view in the State of Colorado together on many issues.

It has been my privilege to serve with him, and I want to at this point thank the distinguished senior Senator for his great help and advice throughout the last few years. We will miss him. I thank you very much, Mr. President.

Mr. ARMSTRONG. Mr. President, I thank my colleague from Colorado. I figured that sooner or later we would be able to take over around here, and tonight is the night. Unfortunately, everybody else has gone home.

Mr. WIRTH. I suspect between the two of us we have caused enough trouble today. It is a good idea nobody is around anymore.

Mr. ARMSTRONG. Mr. President, I thank my friend from Colorado for his gracious comments, which I reciprocate entirely. I am glad for this opportunity to be with him. I see we do have some additional work.

## ORPHAN DRUG AMENDMENTS OF 1990

Mr. WIRTH. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 4638, the orphan drug bill, and that the Senate proceed to its immediate consideration.

Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4638) to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, 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.

AMENDMENT NO. 2977

(Purpose: to amend the Orphan Drug Amendments of 1990)

Mr. ARMSTRONG. 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 Colorado [Mr. ARMSTRONG], for Mr. HATCH (for himself, Mr. DODD, and Mr. LAUTENBERG) proposed an amendment numbered 2977.

Mr. ARMSTRONG. 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 4, line 12, strike out "July 16, 1990." and insert in lieu thereof "the date of the enactment of the orphan drug amendments of 1990."

The PRESIDING OFFICER. Is there debate on the amendment, If not, the question is on agreeing to the amendment.

The amendment (No. 2977) was agreed to.

Mr. HATCH. Mr. President, I would like to clarify a requirement in section 3 which provides an exemption from the simultaneous development provisions of the bill. The bill protects under current law drugs for which investigational new drug applications have been filed for orphan drug status prior to date of enactment and for which human clinical trials were actively being conducted before August 15, 1990.

Mr. METZENBAUM. My colleague from Utah is correct.

Mr. HATCH. I want to ensure that if a previous sponsor of an IND has conducted and completed human clinical trials on a drug prior to the transfer of ownership of the IND to a new sponsor, these clinical trials would be considered to fulfill the requirement of the August 15 deadline.

It is my understanding that an IND for nebulized amiloride for the treatment of cystic fibrosis was originally held by the University of North Carolina at Chapel Hill. Results of clinical trials that the university conducted were published in the New England Journal of Medicine on April 26 of this year. This study provides data which will be submitted to the FDA to help support the approval of the new drug application [NDA]. The sponsorship of the IND for amiloride has been transferred to Glaxo, Inc., which applied for orphan drug status on June 25, 1990, and received orphan drug designation on July 18, 1990. Glaxo will conduct additional clinical trials. I would like assurance, however, from the author of the bill that the clinical trials conducted by the previous sponsor of the IND prior to August 15 will fulfill the requirement of section 3.

Mr. METZENBAUM. It is the intent of the floor managers of this bill that these clinical trials would fulfill the requirement that an applicant be actively conducting clinical trials prior to August 15, 1990, to be exempt from the simultaneous development provisions of this bill.

Mr. HATCH. I thank the Senator from Ohio.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4638), as amended, was passed.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

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

The motion to lay on the table was agreed to.

## ORDER OF PROCEDURE

Mr. WIRTH. Mr. President, I ask unanimous consent that Senator ARMSTRONG be recognized to address the Senate, and that at the conclusion of his remarks the Senate stand in recess under the previous order until 9:30 a.m. Monday morning.

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

## THE BUDGET CRISIS

Mr. ARMSTRONG. Mr. President, I wanted to just finish up the loose ends of the subject that I was discussing a little earlier in the evening.

I was sharing with my colleagues some of the remarks of Senators and Representatives who took part in a news conference today at which they made it clear that they think the right solution to this deficit crisis is to hold the line on taxes, and to somehow curtail spending.

I was putting in the RECORD a number of statements by Senators, and I want to continue that. I want to particularly call attention to my colleagues to the very thoughtful and direct observations of our colleague from Idaho. You all know that when STEVE SYMMS gets up to speak, he does not mince his words. This morning was no exception. He said this in part:

I'm glad that finally, right thinking Members of this Congress are standing up and telling the American people the truth: We do not need to raise taxes to balance this budget.

His statement goes on.

Then there is a wonderful statement by Congressman CHUCK DOUGLAS. It is very brief. It is the results of a poll. A poll by a survey company that asks in about 60 districts across the country the following questions:

If a tax increase is passed by Congress and my Congressman supports it, then this fact alone is enough to make me vote against him in the next election.

Thirty-nine percent of those who were surveyed strongly agree with that statement, and another 15 percent somewhat agree for a total agreement of 54 percent. Among Republicans, 56 percent agree, and others to different extents.

Mr. DOUGLAS concluded that both on the grounds of politics and principle a tax increase would be foolish.

Congressman LARRY CRAIG from Idaho put it this way:

If ever there was a recipe for an out and out recession, raising taxes is it.

His statement goes on—and I will ask in a moment to put that in the RECORD as well. My friend BOB MCEWEN of Ohio was there and he came right to the point:

In the early 1980's when America was losing jobs at the rate of 50,000 a week, we had a declining economy—we passed an economic recovery package.

Since that time, we have created 23 million new jobs, increasing revenues by 7.5 percent a year, compounded income has more than doubled. The only difficulty is that Congress has been increasing spending at an average of 9 percent a year. It doesn't take a rocket scientist to figure out that when revenues are going up 7.5 percent and spending is going up at 9 percent, you have a problem.

He concluded:

There are two solutions. One, you can increase taxes and send the economy back into the doldrums again. Or you can control the growth in spending. We are here very simply to say what our President said in 1984 and 1988—"More taxes are not the solution."

Many of my colleagues know Congressman BOB SMITH who indeed aspires to join us here in the Senate. He said this:

Since I came to Congress, I have pledged not to vote for tax increases. Tax increases are bad politics and bad economics. I stand with my colleagues to strongly oppose any tax increases as a means of reducing the Federal deficit.

He goes on at length.

I send to the desk the statements of our colleagues, STEVE SYMMS, Congressmen DOUGLAS, LARRY CRAIG, BOB MCEWEN, and BOB SMITH, and ask unanimous consent that they be printed in the RECORD.

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

STATEMENT OF SENATOR STEVE SYMMS

I'm glad that finally, right thinking members of this Congress are standing up and telling the American people the truth: we do not need to raise taxes to balance this budget!

But, I also know that the Democrats and their allies, the national media, will try to turn this news conference into a story about how the Conservatives are trying to protect the rich from taxes. They must feel that by creating class warfare, they will fulfill their own political goals.

The truth is, we do not need to, and we should not raise anybody's taxes! There are plenty of ways to balance this budget without raising taxes. Raising taxes will have a devastating impact on an economy that is fragile at best and quite possibly headed into a recession.

I'm also renewing my call to the President to turn the November elections into a referendum on tax increases. I hope the President will go to the people and ask them to send him a Congress which will help him balance the budget with no new taxes.

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CRAIG CALLS TAX PLAN RECIPE FOR RECESSION

WASHINGTON, D.C.—"If ever there was a recipe for an out and out recession, raising taxes is it," said Congressman Larry Craig, commenting on the new package of tax increases slated by Chairman Dan Rostenkowski and the House Ways and Means Committee. "There is absolutely no need for a tax increase when our economy is already weakened."

Craig spoke along with other House and Senate Republicans, who gathered today in Washington, D.C. to oppose a tax package now working its way through Congress. The Democrat tax proposal issued from the House Ways and Means Committee raises $144 billion of new taxes over a period of five years.

"Last week, the American taxpayers spoke and Congress responded by voting down the budget summit agreement. But now the Democrats want to resurrect this monster, slap on a new coat of paint and send it back with the label 'New and Improved.' It's false advertising," Craig said. "The tax package was bad last week and it is bad this week as well."

Craig went on to say: "The problem is not finding more money for Congress to spend—it's forcing Congress to reduce the growth of government that produced our deficit?

"We need to reduce spending, reduce government, and hold the line on taxes. This country's economy is too fragile to be siphoning more money off to feed Congress' spending frenzy," he said.

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POLLS SHOW WE ARE HEADING IN THE WRONG DIRECTION

DEAR FELLOW REPUBLICAN: The following NRCC question was asked in districts nationwide:

"If a tax increase is passed by Congress and my Congressman supports it, then this fact alone is enough to make me vote against him in the next election."

| | *Percent* |
|---|---|
| Strongly Agree | 39 |
| Somewhat Agree | 15 |
| Total Agree | 54 |

56% of all Republicans agree;

60% of older Republicans agree;

59% of Republican men agree.

63% of all respondents say they pay too much income tax (the second highest such finding since 1969).

Let's not walk away from our basic principles, Republicans stand for No New Taxes—that's why we were elected in the first place.

Sincerely,

CHUCK DOUGLAS,
*Member of Congress.*

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MORE TAXES ARE NOT THE SOLUTION

WASHINGTON, D.C.—Congressman Bob McEwen (R-OH) today joined with other U.S. Representatives, Senators and leaders of citizens groups at a press conference to oppose tax increases in the budget agreement. Attached are Congressman McEwen's remarks:

"In the early 1980's when America was losing jobs at the rate of 50,000 a week, we had a declining economy—we passed an economic recovery package.

"Since that time, we have created 23 million new jobs, increasing revenues by 7.5% a year, compounded income has more than doubled. The only difficulty is that Congress has been increasing spending at an average of 9% a year. It doesn't take a rocket scientist to figure out that when revenues are going up at 7.5% and spending is going up at 9% you have a problem.

"There are two solutions. One, you can increase taxes and send the economy back into the doldrums again. Or, you can control the growth in spending. We are here very simply to say what our President said in 1984 and 1988—More Taxes Are Not the Solution."

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CONGRESSMAN BOB SMITH, STATEMENT ON THE BUDGET, OCTOBER 12, 1990

Since I came to Congresss I have pledged not to vote for tax increases. Tax increases are bad politics and bad economics. I stand with my colleagues to strongly oppose any tax increases as a means of reducing the Federal budget deficit.

I've said it before and I'll say it again, our budget deficit is a problem of spending and not a lack of revenue. The taxpayers understand this and now maybe the Democrat leadership will as they try again to craft a budget. We need spending cuts, growth incentives and budget process reform, not tax increases.

The budget summit agreement failed because the American people spoke loud and clear against tax increases. The failed budget agreement was just more of the same "tax and spend" policies that created the deficit in the first place. If Republicans controlled the U.S. House and Senate, we would never have considered such a liberal "tax and spend" budget.

The Democrat leadership has consistently fought against the goals of the summit and blocked real spending cuts or growth incentives, instead they have championed tax increases at every turn. Well, they must not be listening to the folks at home. Letters and phone calls to my office are running approximately ten to one against any budget that raises taxes.

I will continue to oppose any plan that increases taxes on the working men and women of New Hampshire. Furthermore, I will not look a senior citizen in the eye and tell them their Medicare premium and deductible are going up, while Congress refuses to cut one nickel out of foreign aid.

I urge Congress to live up to its constitutional responsibility and pass a budget that makes real spending cuts and does not succumb to tax increases that will devastate our economy.

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Mr. ARMSTRONG. TRENT LOTT was there. I do not have his written statement, I regret to say. I hope to put it in the RECORD.

JESSE HELMS was there and made a wonderfull off-the-cuff statement. He was not speaking from notes, as far as I know. As usual, he not only spoke, but it was unusual for a news conference, he got a good round of applause when he finished.

CONRAD BURNS was there and made an earthy statement. I could not begin to repeat exactly what he said, but I got the drift of it. It was "no new tax."

DAN COATS was there. CHUCK GRASSLEY could not come, but he was there in spirit. CONNIE MACK was unable to be with us because of a conference he was taking part in. RUDY BOSCHWITZ, the same. FRANK MURKOWSKI, who was not there, I know feels as the others did.

There are a lot of Members of the House and Senate that thought this was an important issue. I do not have the statements of some of the House Members who were there: BOB DORNAN; TOM DELAY who made a masterful presentation; PHIL CRANE; RON PACKARD; CASS BALLENGER; JIM INHOFE; BILL DANNEMEYER; MEL HANCOCK; DENNY SMITH; and DAN BURTON.

We were pleased to be joined by a very distinguished group of people representing the private sector. Among them, Dr. Richard Rahn, who is the chief economist of the U.S. Chamber of Commerce. Dr. Rahn does not need a written statement. He spoke from his mind and his experience and his heart. He summed it up so well. "This is not a time to raise taxes."

He also addressed a question which I think is in the mind of many people; that is, whether or not our resent tax system is sufficiently progressive. That is, whether it is graduated to a sufficient extent. He shared these statistics, which I also want to put in the RECORD: the top 1 percent of American taxpayers earn 13.4 percent of the income and pay 24.8 percent of the tax liability; 1 percent of taxpayers earn 13.4 percent of income, and pay 24, almost 25 percent of the taxes.

The top 5 percent earn 28 percent of all income; that is, the top 5 percent of taxpayers earn 28 percent of the income. They pay 44.8 percent of the taxes.

The top half earn 86 percent of the income and pay 94.4 percent of the taxes.

Dr. Rahn believes, and I share his conclusion, that is plenty steep enough when it comes to a graduated tax structure.

Dr. Norman B. Ture, president of Institute on Research on the Economics of Taxation, and served with great distinction in the Reagan administration in the Treasury Department, also prepared a statistically thoughtful and insightful statement which I will presently send to the desk and ask it be printed in the RECORD.

Then there was a great statement on behalf of the National Taxpayers Union, a 200,000-member organization criticizing the budget agreement and saying that higher taxes threaten economic growth and weigh heavily on

taxpayers. I will ask unanimous consent to put that in the RECORD.

Also a statement of American Legislative Exchange Council which represents some 2,400 conservative Democratic and Republican State legislatures. And they harshly criticize the House Ways and Means Committee-proposed tax bill as "an exercise in fiscal stupidity."

The Business and Industrial Council was represented and the headline on their statement sums it up so well, "Business Leader Joins in a No New Taxes Call."

The Americans for Tax Reform were represented by Grover Norquist. I want to put his statement in the RECORD. It is an excellent one.

We believe that Grace Ellen Rice was there speaking on behalf of the American Farm Bureau, an organization which represents some 3.8 million farm families throughout the country. The statement traces the historical development of economic thought within the Farm Bureau, but Grace Ellen's comment today at the news conference made it clear that the Farm Bureau Federation's opposition to tax increases is not just a matter of historic policy; it is the way that they feel today. And she made a very vivid and helpful statement.

The National Tax Limitation Committee the same. The headline "National Tax Limitation Committee Blasts Ways and Means Tax Bill."

Finally, the Citizens Against Government Waste issued a statement under the caption "Budget Agreement a Fraud on Taxpayers."

Mr. President, I send all of these statements to the desk and ask unanimous consent that they be printed in full in the RECORD.

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

STATEMENT BY DR. NORMAN B. TURE, PRESIDENT, INSTITUTE FOR RESEARCH ON THE ECONOMICS OF TAXATION

BAR THE DOOR ON TAX INCREASES

WASHINGTON, D.C.—Commenting on current deficit reduction efforts, Dr. Norman B. Ture, President of IRET, stated "It's astonishing that the Administration and Congressional leaders are even considering tax increases of any sort as part of the fiscal 1991 budget package." He noted that "any tax increase is anti-growth, anti-efficiency, and anti-competitive. The last thing the American economy ever needs is to assume the burden of additional taxes and the economic distortions they impose." Pointing to current economic conditions, Ture said "With the current economic deterioration, tax increases of any sort or any size would be fiscal absurdities."

Noting that the ostensible objective of reducing the federal budget deficit is to increase national saving, Ture asserted that tax increases won't serve that objective. "On the contrary," he insisted, "tax increases will cut private saving, at least dollar for dollar. Moreover, unless history lies, much if not all of the additional tax revenues will simply fund additional spending. Tax increases will reduce national saving, not increase it."

"Increasing federal spending, not reducing the budget deficit, is, clearly, the hidden objective of some of the Congressional leaders," Ture said. He pointed out that deficit reduction could be achieved with no tax increase merely by cutting fiscal 1991 outlays by the $40 billion proposed in the ill-fated summit agreement. "That cut," he stated, "would meet the new Gramm-Rudman-Hollings deficit target proposed in the agreement; it would also allow total federal outlays to increase by $50 billion or more. Surely Congressional and Adminstration policy makers could make do with such genial, nontaxing economizing."

"What the American economy needs today is a tax policy aimed at achieving more vigorous growth, greater efficiency, and more effective use of U.S. businesses in the world market place. No tax increase can possibly serve these objectives," Ture concluded.

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TAXPAYERS' GROUP SLAMS BUDGET DEAL

WASHINGTON, D.C.—The 200,000-members National Taxpayers Union today criticized the budget agreement, saying that its higher taxes threaten economic growth and weigh too heavily on taxpayers.

"Most of the beef in this budget deal comes from the hides of taxpayers," said David Keating, executive vice president of the National Taxpayers Union, at a press conference held by groups critical of the plan.

"A typical two-earner family earning $48,000 could expect to pay almost $400 in new taxes. And that's not counting many higher user fees," said Keating. "higher taxes threaten our economy, which is already in recession in much of the country.

"Subsidies to big business, unions and other special interests emerged almost completely unscathed," charged Keating. "The Defense cuts aren't real cuts at all. Defense spending will be frozen, but it is at a higher level than Congress would have approved on its own. Domestic discretionary programs will grow by almost six percent a year.

"All told, higher taxes and fees will take $148 billion out of taxpayers' pockets by 1995, if the plan becomes law. Worse, President Bush and budget negotiators agreed to effectively increase the top income tax rates to 29% and 34%, a direct attack on tax reform.

"One hundred three members of the House of Representatives pledged to our members not to vote for an increase in income tax rates. We are contacting every one of these legislators, which includes a majority of House Republicans, to hold them to their pledge," said Keating.

The National Taxpayers Union, the nation's largest non-profit, non-partisan taxpayers organization, represents 200,000 members interested in reducting and limiting government taxes and spending.

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STATE LEGISLATORS ORGANIZATION BLASTS TAX HIKE PROPOSAL

The American Legislative Exchange Council (ALEC), representing 2,400 conservative Democratic and Republican state legislators, today harshly criticized the U.S House Ways and Means Committee's proposed tax bill as "an exercise in fiscal stupidity."

Duane Parde, Director of ALEC's Task Force on Tax and Fiscal Policy, said, "Raising taxes is seldom good economic policy; raising taxes with the economy on the edge of a recession is certain disaster."

While acknowledging that the deficit is a serious problem, Parde said that Congress should be addressing the problem through spending cuts. "As long as the federal budget is larded with pork and other waste," said Parde, "the government has no right to take more of the taxpayer's hard earned money."

"Americans are not under-taxed," concluded Parde, "Congress just spends too much!"

The American Legislative Exchange Council is the nation's largest bipartisan individual membership organization of state legislators. More than 2,400 state legislators from all 50 states, including over 500 legislative leaders are members of ALEC, brought together by a common commitment to the Jeffersonian principles of competition in the market place, free enterprise, limited representative government, pro-growth and pro-family tax policies, traditional western values, individual liberties, and effective educational and judicial institutions. ALEC provides the research and resource support on the vital issues challenging these state lawmakers.

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BUSINESS LEADER JOINS NO-NEW-TAXES CALL; SAYS "GO AFTER FOREIGN SUBSIDIARIES, UNCOLLECTED TAXES"

WASHINGTON.—"Taxes simply cannot be raised as America sits on the precipice of a potentially severe economic recession. If some in Congress, and the president, are insistent on raising taxes, they should do so by going after the foreign subsidiaries which are underpaying their federal taxes by billions of dollars each year," John P. Cregan, president of the United States Business and Industrial Council, said today.

"Federal revenues nearly doubled between 1980 and 1990, yet the gap between revenues and spending did not significantly close during that period. On average, for each dollar in new revenue Congress spends more than a dollar and a half. That shows no inclination toward fiscal responsibility and leads us to think that greater taxation will only worsen our problems," Cregan continued.

"We said from the beginning that any budget settlement would have to meet four criteria: (1) Does it contain meaningful changes in spending patterns?; (2) Does it contain budget reforms that will stop governance by summit?; (3) Does it contain incentives for economic growth?; and (4) Does it avoid the pitfalls that could worsen and prolong the current economic slowdown? So far, every budget proposal we've seen, from the Washington Summit Deal to Tuesday's Ways and Means Committee bill, fail these four tests miserably.

"The Washington Summit Deal had precious little to recommend it, along with what would have been the largest tax hike in American history. It failed largely because of the huge tax increases it envisioned," Cregan said. "Yet, the House Ways and Means Committee seems to have failed to learn the lesson of last week—they proposed $145 billion in new taxes."

"It is inconceivable to us that when some have estimated that domestic subsidiaries of foreign companies have underpaid their taxes by as much as $50 billion in recent years, we are considering extracting still more from the paychecks of ordinary Americans. At the very least, we must deal with the foreign subsidiary taxation issue before we raise the taxes of American citizens," Cregan concluded.

The United States Business and Industrial Council is a national organization of 1,500 business leaders dedicated to preserving American economic preeminence.

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TAXPAYER GROUP ATTACKS PLEDGE BREAKERS AND TAX INCREASES

WASHINGTON, DC.—Grover Norquist, President of Americans for Tax Reform, today launched an attack on those who have suggested raising taxes to balance the budget and released the names of those members of the House of Representatives who refused to keep their pledges to the people of their districts and to the people of the United States.

"To argue that the only way to balance the budget and reduce the deficit is to impose regressive, restrictive tax rates on working America is not only foolish, but it flies in the face of the economic evidence collected over the past 10 years. When you raise taxes, you crowd out growth and investment and you chip away at the value of tax home pay. That's not fair to the people and it's not good economics," Norquist said.

"Raising taxes anytime is unwise and unfair. Raising taxes in a recession is lunacy and economic suicide," Norquist continued.

104 members of the House and 19 Senators have taken the ATR "Taxpayer Protection Pledge" promising to oppose any efforts to increase marginal tax rates or to eliminate deductions or credits without decreasing rates. In the House of Representatives on October 5, 1990, 34 pledge takers broke their pledge to the voters. "These members of Congress all took the Taxpayer Protection Pledge of their own free will. No one held a gun to their head. We expected them to keep their word, as did the people who voted for them. They didn't. They're Pledge breakers," Norquist said.

The list of members who broke the Pledge is listed on the reverse.

Americans for Tax reform is a coalition of taxpayer groups, businesses and civic organizations dedicated to protecting the marginal tax rates set by the Tax Reform Act of 1986.

The U.S. House of Representatives voted 254 to 179 to defeat the proposed Summit tax increase proposal. A vote for that agreement was a violation of the Taxpayer Protection Pledge. Below is the list of names of members who violated their pledge to the voters and to the American people.

Richard Baker (R-LA),
Steve Bartlett (R-TX),
Jack Buechner (R-MO),
Larry Combest (R-TX),
Jim Courter (R-NJ),
Kika de la Garza (D-TX),
Dean Gallo (R-NJ),
George Gekas (R-PA),
Bill Goodling (R-PA),
Fred Grandy (R-IA),
John Hammerschmidt (R-AR),
James Hansen (R-UT),
Denny Hastert (R-IL),
Andy Ireland (R-FL),
Jim Kolbe (R-AZ),
Norm Lent (R-NY),
Jerry Lewis (R-CA),
Bob Livingston (R-LA),
Bill Lowery (R-CA),
Buz Lukens (R-OH),
Mike Oxley (R-OH),
John Porter (R-IL),
John Quillen (R-TN),
John J. Rhodes III (R-AZ),
Pat Roberts (R-KS),
Tommy Robinson (R-AR),
Clay Shaw (R-FL),
Norm Shumway (R-CA),
Don Sundquist (R-TN),
Guy Vander Jagt (R-MI),
Barbara Vucanovich (R-NV),
Bob Whittaker (R-KS),
Bill Young (R-FL),
Don Young (R-AK).

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STATEMENT ON BUDGET AND TAXES

(Presented by Grace Ellen Rice, Associate Director, Washington Office

The American Farm Bureau Federation is the nation's largest general farm organization with over 3.8 million member families throughout the country.

Farm Baureau has urged consistently the enactment of a budget agreement based on spending restraint, not tax increases, while Congress has wrestled with the budget issue in recent weeks. Higher taxes, regardless of the kind of tax, will be harmful to an already shaky economy. Additionally, Farm Bureau members believe that higher taxes will only fuel more spending. It is our opinion that despite the increased taxes we have paid over the last decade, the deficit has not been reduced. Instead, spending each year is higher than the year before.

The time has come for Congress to enact a workable alternative to the tax increases that are being discussed on Capitol Hill. We ask the Congress to adopt a spending freeze in all areas of federal spending. A freeze is not a cut. Spending would be maintained at the previous year's funding level. A freeze is not a perfect or permanent answer, but it is fair and appropriate for all federal programs to share the responsibility for deficit reduction.

Farm Bureau's main message is 'no to more taxes.' On behalf of the farmers and ranchers in this country, we ask the Congress to reject tax increases and to freeze spending. Yesterday in a telegram we urged the President to veto any budget package from the Congress that includes tax increases. We ask the Congress and the President to enact a budget based upon spending restraint, not higher taxes.

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AMERICAN FARM BUREAU FEDERATION,
*Park Ridge, IL, October 11, 1990.*

Telegram to President Bush.

Hon. GEORGE BUSH,
*President of the United States, The White House Washington, DC.*

DEAR MR. PRESIDENT: Farm Bureau urges you to veto any budget package from the Congress that includes tax increases.

A budget freeze is the only common sense solution to the budget impasse. We urge you to publicly call on the Congress to pass appropriation bills for FY 1991 at the same level of appropriations as for FY 1990 and to veto all FY 1991 appropriation bills that exceed FY 1990 spending levels.

This would put you in line with the majority of Americans who want to stop the continued growth in federal government taxation and spending.

Sincerely,

DEAN KLECKNER,
*President.*

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NTLC BLASTS WAYS AND MEANS TAX BILL

WASHINGTON, DC, October 12, 1990.—Today on Capitol Hill, The National Tax Limitation Committee (NTLC), representing 500,000 taxpayer-supporters across America, blasted the House Ways and Means Committee tax bill as "economically irresponsible."

NTLC President Lewis K. Uhler said, "raising $145 billion in new taxes during a recession is a sure recipe for economic disaster."

"This Congress should be working to stimulate the economy, not throttle it. History is clear, tax increases will simply deepen the recession. Just as clear, for every new tax dollar raised by Congress, they have managed to spend a dollar and a half."

"The deficit problem is serious and should be addressed. Just as it was created by excess government spending, it must be solved by restraints on the growth of federal spending," concluded Uhler.

Any significant tax increase will not only deepen the recession, it will, as a result, increase the deficit it is designed to reduce.

NTLC will oppose any Congressional tax hike as totally irresponsible.

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BUDGET AGREEMENT A FRAUD ON TAXPAYERS

Upon review of the budget summit agreement, Alan L. Keyes, president of the 400,000-member nonpartisan Citizens Against Government Waste (CAGW), said, "This agreement is simply another effort by our elected officials to perpetuate the big lie that taxes are necessary to reduce the budget deficit."

"The American people are smarter than the budget summiteers think. They are not going to buy this agreement, reached in secret by an arrogant Washington clique, which believes that they can thwart public opinion and raise taxes without changing their method of doing business. Taxpayers believe that most of the money they send to Washington goes to waste, and until they are assured of increased government efficiency, they will resist this fraudulent and massive tax increase, which is the third largest in history," said Keyes.

"The agreement increases taxes for every American, but it does not eliminate one cent of waste from federal programs. The $134 billion in new taxes will not be used for deficit reduction, as domestic programs will increase by $150 billion over the next five years," Keyes said.

Of the $500 billion in deficit reduction, 71% comes from tax increases and defense spending cuts, according to a CAGW analysis.

Keyes added, "While our elected officials are discussing the pain to the taxpayers in this deal, they are laughing all the way to the bank with their salary increase, which as of January 1, 1991, will give House members $124,500 a year, an increase of $35,000, or 40%, in just over one year," Keyes added.

According to the CAGW review of the summit agreement, there is a complete lack of budget process reform that would help prevent future raids on taxpayers' pocketbooks. The President did not get any increase in his veto power; there is no requirement that the budget be signed into law; and does not prevent continuing resolutions at the end of the fiscal year that usually result in billions of dollars in wasteful pork barrel spending.

To help taxpayers take back control of their government, CAGW, through its affiliated lobbying organization, the Council for Citizens Against Government Waste, along with more than a dozen national organizations, is sponsoring Taxpayer's Action Day on October 27th. "That is when our elected officials will really begin to feel the heat from citizens across the nation who are tired of being mis-represented in Washington," Keyes concluded.

To find out more about Taxpayer's Action Day, citizens can call 1-800-BE-ANGRY, or 1-800-232-6479.

Mr. ARMSTRONG. Mr. President, I note that the Senator from Alaska has arrived and I would like to yield to him for a few moments or for as much time as he would like to have.

The PRESIDING OFFICER. I say to the distinguished Senator that when he completes his statement the Senate will recess for the evening.

Mr. ARMSTRONG. I was seeking to yield while retaining the floor as part of my comments.

The PRESIDING OFFICER. I regret. If the Senator wants to ask unanimous consent, he may do that. But we do have a unanimous-consent order that when the Senator completes his remarks the Senate will stand in recess.

Mr. ARMSTRONG. I ask unanimous consent I be permitted to yield to the Senator for that purpose.

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

Mr. MURKOWSKI. I thank my good friend from Colorado.

While it is late at night, and I apologize to you, Mr. President, and to those who are still here, I think it is appropriate that my contribution be entered into the RECORD as a consequence of my deep concern that indeed we have failed in meeting our obligation and the consideration of relief in the sense of raising taxes as opposed to what I think we were all hoping would be a reduction in spending, and as a consequence of the controls that were brought about through Gramm-Rudman and the sequestration we have seen as a consequence of the budgeteers the inability to get in the safeguards that many of us felt were absolutely necessary in the budget process.

Mr. President, I would like to call attention to just a few figures that I think are most appropriate. When one considers the total national debt now at $3,189,970,000,000, I would call to the attention of the President when I came to this body in 1981 it was $575 billion.

Mr. President, we are told that if the mandated cuts that are made of the 5-year period at the end of the 5 years our accumulated debt will be in the area of $5 trillion. It is not a question any more of "if." It is simply a question of when. At some point in time the economy will collapse as a consequence of a lack by the public and a lack of the investment community that we are in control and capable of governing. It will come when investors, among them foreign investors, are convinced that no longer are we creditworthy of their investment and that is an investment that now we have become dependent upon because it is what finances our debt.

As a consequence, Mr. President, we look at some of the points that have been brought up. I think the Senator from Wyoming mentioned earlier that an effort was made with regard to the potential for revenue matter totaling about $3.4 billion known as the Anwar issue, the proposal to sell oil leases in Anwar.

It is not necessarily a question, Mr. President, of debating the issue of whether Anwar should or should not be open, but more the realization that the bureaucracy has reached a point where the committee was advised by CBO that they could not even score the saving. It was declared an asset, and therefore inappropriate to be scored.

Mr. President, on perhaps a more positive note, the Veterans Committee today went into an extensive debate in the reconciliation process, and the target for that particular committee, on which the junior Senator from Alaska is the ranking Member, was to save $3 billion over the 5-year period.

Mr. President, there was a proposal that at the end of the 5-year period, as a consequence of the mandate to achieve the first year's target of $600 million, the savings would be in excess of $3 billion, and approximately $5 billion.

Obviously, the committee had a chance to generate the savings and a contribution to the Treasury. There was a proposal that that be sunsetted.

Basically, Mr. President, by sunsetting it, we would have created, in effect, a new entitlement capability for that committee which would give them the authority to authorize because they had the additional funds, which clearly was in conflict with the spirit of the budgeteers as we reflect on the realization that what we were attempting to do was to bring about savings.

Fortunately, Mr. President, after a good deal of debate, the decision was made to drop the sunsetting and this committee, as far as I know, Mr. President—I would bring this to the attention of the senior Senator from Colorado—was the first committee to provide a budget savings of $2 billion. But I assure you it was not easy.

Let me conclude my remarks by referring to a piece that was in the U.S. News and World Report on October 8. I think it summarizes the dilemma that we are in. I think the public is convinced that the political system is broken.

I think the public is convinced that it is going to take a sledgehammer to cure it, and that is going to affect the lives of every one of us. Because this continued debt—spending, spending, spending—has to end at some point in time, just as the Senator from Alaska has to end his remarks at some point in time. And I am sure you are all anxious for that.

But the reality is that Washington is feeling the flames. We have a situation where the idea of limiting the number of years the people could serve in this body is being generated in the legislative bodies throughout the various States. It is true the quality of people in office today is probably higher than before, but I think it is fair to say that many of us feel we are trapped by forces beyond our individual control, in many cases.

To stay in office lawmakers must raise money, work with lobbyists, political consultants. "A single act of courage, elicits an onslaught of 30-second spots." I could go on and on. "Good men and women who might seek office are daunted by the roadblocks in their way. Many say it's not worth demeaning yourselve or allowing your private life to become so deeply invaded. As a result, politics has become much less competitive. Nearly half the Senators seeking reelection in this body face only token opposition," and the same thing is true probably more so in the House.

Mr. President, I ask unanimous consent that an editorial from the U.S. News and World Report on October 8 be printed in the RECORD.

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

HEAT FROM A PRAIRIE FIRE

(By David Gergen)

A prairie fire is starting to roll across America. Citizens of Oklahoma, fed up with high taxes and low returns, kicked up the first sparks this fall, voting overwhelmingly to limit the length of a politician's career in the State Legislature. Voters in California and Colorado are expected to approve similar initiatives this November. Pollsters say that term limitations would have a good chance in every state in the Union and will soon be heading toward Washington.

The sooner Washington feels the flames, the better. On its face, the idea of limiting the number of years a person can serve in Congress is wacky. It denies voters an opportunity to re-elect beloved veterans—say, Barry Goldwater, who served 29 years in the Senate, or Tom Foley, now in his 25th year in the House. In practice, however, the shameful recent performance by Washington's political establishment is quickly turning many skeptics into believers. Everyone knows that the political system is broken, and it is increasingly clear that the only cure is a sledgehammer.

The pity is that the quality of people in office today is higher than in the past—most are well educated, sensible and honest—but they feel trapped by forces beyond their individual control. To stay in office, a lawmaker must answer to an army of lobbyists, fund-raisers, political consultants and party leaders, all far removed from people back home. A single act of courage elicits an onslaught of 30-second spots in the next election. Years of frustration can be spent waiting for a top committee post to open up. Gradually, the willingness to make tough decisions has become more and more rare. Incumbents become less interested in

protecting the country than in protecting their rear ends.

Good men and women who might seek office are daunted by the roadblocks in their way. Many say it's not worth demeaning yourself or allowing your private life to be so deeply invaded. As a result, politics has become much less competitive. Nearly half the senators seeking re-election this fall face only token opposition; fewer than 1 in every 7 House races is competitive. The Democrats have a near lock on Congress, Republicans on the White House. Voters looking for fresh faces and intelligent discourse grow more and more disillusioned. The politicians in Washington strike them as increasingly irrelevant.

There are those who will argue that the budget agreement finally shaping up between Congress and the White House proves that the system is still working. It does not. Many in Congress will vote for it with a heavy heart. From early descriptions, the agreement does achieve some important breakthroughs: It begins to cap some of the runaway spending programs, especially in entitlements. But it does little to stimulate economic growth at a time when the economy is sinking. More to the point, it inflicts the pain of higher taxes without really solving the underlying problem: The hemorrhage of government borrowing.

The budget negotiators are trying to reduce the federal deficits by about $500 billion over five years. Government borrowing, however, is now skyrocketing at the rate of some $300 billion a year, so that the package under consideration carries us only about a third of the way toward a truly balanced budget. Congress and the White House must come back next year and start this excruciating process all over again. Just in the 10-plus weeks that these negotiations dragged on, the national debt has jumped more than $75 billion. That's the bill sent C.O.D. to our children, postmarked Washington, D.C.

Nor are the budget deficits the only area where today's "leaders" seem hamstrung. Despite the crisis in the Persian Gulf, neither the President nor the Congress has come up with a national policy on energy. The nation's insurance plan on energy can be summed up in four words: Send in the troops. Congress is also dragging its feet in meeting the President's call to help Egypt and Turkey, staunch allies in the Gulf. On two other contentious issues, clean air and civil rights, Congress and the White House are poles apart. Child care, housing, campaign finance, congressional ethics—all have been bogged down far too long. Where Congress has moved, in passing a protectionist bill for textiles, it has acted so irresponsibly that it could damage important international-trade talks.

Removing the poison of money from politics must be the first step toward reform. But let's keep that prairie fire rolling, too.

Mr. MURKOWSKI. Mr. President, I commend my colleague from the State of Colorado for even at this late date bringing this to the attention of the American public, and more particularly to those of us in this body who the American public expect to respond when the crisis is at hand; and truly, Mr. President, the crisis is at hand, and even more so it is out of control.

I personally am a very optimistic person. But what is occurring as a consequence of the inability to meet our obligations to cut spending is truly disappointing to me.

Mr. President, I yield the floor to my colleague from Colorado.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Alaska for coming over to say what he has. It does not surprise me because I know that the Senator from Alaska is well informed about this whole budget crisis. He comes to the Senate from a business background and a banking background. He knows what happens if you dig yourself too deep into debt as our country is doing. I am thankful to him for standing up to be counted.

When somebody like the Senator from Alaska comes here and says it is time to restrain spending, not to raise taxes, that is going to carry weight with a lot of people not only in Alaska but in this Chamber and elsewhere. So I thank him for saying what he has .

Mr. President, I want to explain my effort tonight in reading what Richard Rahn and Norman Turret and the others from the private sector think about the question of raising taxes, is not just an educational enterprise. I hope it has sort of an educational aspect to it. Perhaps there will be Senators and staffers and others who will read the CONGRESSIONAL RECORD and whose thought-life will be enriched by reading what these thoughtful men and women are saying about raising taxes and about the threat that it poses to our economy.

But let me say to my colleagues, and especially to the Senator from Alaska, there is more in my mind than just education. I think there is an outside chance, not a certainty, not a probability but an outside chance, that we defeat this tax package. There is an old saying that the race is not always to the swift and the battle is not always to the strong but that is the way to bet.

If you are just to handicap the outcome, the likely outcome is that the streamroller will prevail and that this tax package will be enacted into law. But there is a reasonable prospect that if some people really look at the consequences, this thing can turn on a dime. That happened the other day in the House when the summit package, which supposedly was greased and ready to go through, certain of passage, was unexpectedly defeated despite the efforts of a lot of very important people in this town to get passed.

History could repeat itself, If we were successful in defeating this package of huge tax increase then what is our alternative? There are several alternatives, emphasizing spending restraint. The simplest would be just to adopt a 1-year continuing resolution with a $40 billion sequester. That is not an elegant solution to the budget crisis, but it is a practical solution.

The reason why I say that is probably the most likely outcome if we defeat the tax package is because that is an on-the-shelf, known quantity. That is an idea that was tried out in the House of Representatives. It got 186 votes. It almost passed. It could pass here.

There are many other more sophisticated, more elegant approaches to cutting the budget or to restraining growth in Federal spending we could also consider, but the first prerequisite is we have to defeat the tax package. I hope we can do that. Some will say it is not that bad, it may clip a few high-income people but maybe they ought to be nicked a little.

In fact, there is a rather persistent and deliberate effort on the part of a number of our colleagues to portray this tax package in terms of class warfare, to really set the rich against all the rest of us or, more properly, to sort of draw a circle around all of us and say we are going to blame it on the rich; we are going to tax the rich.

Let me tell you something, Mr. President. This tax bill they are cooking up in the Finance Committee right now is going to hurt the rich, but it is also going to hurt some other people too. You will not be hurt by this unless you earn an income, smoke cigarettes, own a small family business, drive a car, drink beer or wine, work for an insurance company, or have a telephone.

If you do any of those things, your taxes are going to be raised. If you have any of those things in your life, an income, a telephone, a car, or anything like that, you ought to be concerned. Even if you do not have any of those things in your life, if you care about the future of the American economy, you ought to stand up to be counted against this recession tax bill.

Mr. President, I am sorry to keep staff on hand a little later than usual. These things need to be said. They need to be in the RECORD tonight. I am sorry to delay the Presiding Officer. I am sorry to delay the Senator from Colorado. But I do thank my colleagues and all who have made it possible for me to speak tonight, and I yield the floor.

## APPOINTMENT OF CONFEREES—H.R. 3095

The PRESIDING OFFICER. The Chair appoints the following conferees on the part of the Senate for H.R. 3095: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Mr. DURENBERGER, and Mr. COATS.

## ORDERS FOR MONDAY, OCTOBER 15, 1990

Mr. WIRTH. Mr. President, in behalf of the majority leader I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m., Monday, October 15; and that following the time for the two leaders there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes.

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

## RECESS UNTIL 9:30 A.M., MONDAY, OCTOBER 15, 1990

The PRESIDING OFFICER. Under the previous order, the Senate now recesses until Monday, October 15, at 9:30 a.m.

Whereupon, at 11:50 p.m. the Senate recessed until Monday, October 15, 1990, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate October 12, 1990:

EXPORT-IMPORT BANK OF THE UNITED STATES

CECIL B. THOMPSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1991, VICE SIMON C. FIREMAN, RESIGNED. CECIL B. THOMPSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 1995. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

*To be general*

GEN. MICHAEL J.DUGAN, xxx-xx-xxxx, U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

*To be lieutenant colonel*

JAMES G CLARK, xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

*To be lieutenant colonel*

FRED W OLSEN, JR, xxx-xx-xxxx

CHAPLAIN CORPS

*To be lieutenant colonel*

LAWRENCE J DOYLE, xxx-xx-xxxx

LINE OF THE AIR FORCE

*To be major*

DAVID R HEIN, xxx-xx-xxxx

CHAPLAIN CORPS

*To be major*

STEPHEN E SPINGATH, xxx-xx-xxxx

ROBERT M WINEBERG, III, xxx-xx-xxxx

MEDICAL SERVICE CORPS

*To be Major*

MICHAEL T FEESER, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN CORPS

*To be major*

STEPHEN E SPINGATH, xxx-xx-xxxx

IN THE AIR FORCE

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

*To be lieutenant colonel*

DENNIS G. CARALIS, xxx-xx-xxxx
ALEXANDROS A. CONSTANTARAS, xxx-xx-xxxx
STEPHEN DINENBERG, xxx-xx-xxxx
PAUL A. LUNSETH, xxx-xx-xxxx

THE FOLLOWING REGULAR OFFICERS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

*To be lieutenant colonel*

ROBERT S. WALDEN, xxx-xx-xxxx

DENTAL CORPS

*To be lieutenant colonel*

BRIAN W. BECK, xxx-xx-xxxx
ROBERT S. JOHNSON, xxx-xx-xxxx

THE FOLLOWING OFFICERS FOR RESERVE OF THE AIR FORCE (NON-EAD) PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 1552, TITLE 10, UNITED STATES CODE.

NURSE CORPS

*To be colonel*

JUDITH H. WOOD, xxx-xx-xxxx

*To be lieutenant colonel*

LINDA M. WHITTINGTON, xxx-xx-xxxx

LINE

*To be colonel*

THOMAS M. KOSMO, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR RESERVE OF THE AIR FORCE (NON-EAD) PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF THE ASTRONAUT PROMOTION POLICY.

MEDICAL CORPS

*To be lieutenant colonel*

JAMES P. BAGIAN, xxx-xx-xx...

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS OF THE REGULAR MARINE CORPS FOR APPOINTMENT AND DESIGNATION AS UNRESTRICTED OFFICERS IN THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589:

*To be lieutenant colonel*

MICHAEL W GASTON, xxx-xx-xxxx
JULIUS B HOPKINS, xxx-xx-xxxx

*To be major*

JOHN E THOMAS, xxx-xx-xxxx
GARY D WIMSETT, xxx-xx-xxxx

*To be captain*

STEPHEN D BROWN, xxx-xx-xxxx
MICHAEL E FERGUSON, xxx-xx-xxxx
STEPHEN L GALLOWAY, xxx-xx-xxxx
MIGUEL J GRIFFITH, xxx-xx-xxxx
FELIPE HERNANDEZ, xxx-xx-xxxx
ROBERT E JOHNSON, xxx-xx-xxxx
SAMUEL O LEWIS, JR, xxx-xx-xxxx
JOSE G LUCIO, xxx-xx-xxxx
RICHARD C MATHENY, xxx-xx-xxxx
WILLIAM M RUKES, xxx-xx-xxxx
CHARLES A RYN, xxx-xx-xxxx
WILLIAM S WATKINS, xxx-xx-xxxx
TONY L AKINS, xxx-xx-xxxx
HARRY L ALMAND, xxx-xx-xxxx
THURMAN L BOBBETT, xxx-xx-xxxx
KELLY R BOLE, xxx-xx-xxxx
EDMUND J BOWEN, xxx-xx-xxxx
DANIEL A BROWN, xxx-xx-xxxx
DAVID W BURKS, xxx-xx-xxxx
JAMES D CLARK, xxx-xx-xxxx
EDWIN S CLARKE, xxx-xx-xx...
JAMES W COLMAN, JR., xxx-xx-xxxx
MYRON P EDWARDS, xxx-xx-xxxx
GARY A GAGNER, xxx-xx-xxxx
MARK C GAMBESCIA, xxx-xx-xxxx
RICHARD L GRIMM, xxx-xx-xxxx
MICHAEL D HAGERTY, xxx-xx-xxxx
ANNMARIE HIGGINS, xxx-xx-xxxx
JOHN D KLEMM, JR, xxx-xx-xxxx
JEFFERY D MARSH, xxx-xx-xxxx
AUBREY L MIHALCOE, JR, xxx-xx-xxxx
SANDRA H NELSON, xxx-xx-xxxx
GORDON E PAGLIONE, xxx-xx-xxxx
JEFFREY M POHLMANN, xxx-xx-xxxx
GEOFFREY L ROBERTS, xxx-xx-xxxx
TERRENCE J SAUBER, xxx-xx-xxxx
ANNE M SHUFORD, xxx-xx-xxxx
KEVIN J SHUSKO, xxx-xx-xxxx
CURTIS R SMITH, xxx-xx-xxxx
ANDREW W SWANSTON, xxx-xx-xxxx
DAVID L WEGNER, xxx-xx-xxxx
DAVID K WINNETT, JR., xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR TRANSFER INTO THE REGULAR MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

*To be captain*

GARY S. BARTHEL, xxx-xx-xxxx
ELLIOTT BENSON, xxx-xx-xxxx
TIMOTHY C. BRENNEMAN, xxx-xx-xxxx
JOSEPH R. BROSHEARS, xxx-xx-xxxx
CHARLES K. CARROLL, xxx-xx-xxxx
EDWIN B. CASSADY, xxx-xx-xxxx
PHILLIP G. CHAPMAN, xxx-xx-xxxx
ROBERT E. CLAY, xxx-xx-xxxx
CRAIG R. CLEMENT, xxx-xx-xxxx
SCOTT M. COCHRAN, xxx-xx-xxxx
GARY A. CORREIA, xxx-xx-xxxx
MARK W. DAHL, xxx-xx-xxxx
TIMOTHY M. DUNN, xxx-xx-xxxx
WALTER R. DYAR, xxx-xx-xxxx
THOMAS A. EWING, xxx-xx-xxxx
JOHN P. GALLAGHER, xxx-xx-xxxx
JEFFERY A. GARDNER, xxx-xx-xxxx
EUGENE H. GODIN, xxx-xx-xxxx
MARK J. GRIFFITH, xxx-xx-xxxx
CHRISTOPHEP GUTMANN, xxx-xx-xxxx
CHRISTOPHES HADINGER, xxx-xx-xxxx
RICHARD D. HAFENBRACK, xxx-xx-xxxx
DOUGLAS R. HAMILTON, xxx-xx-xxxx
BRUCE E. HATLEM, xxx-xx-xxxx
PHILIP T. HEIN, xxx-xx-xxxx
JEFFREY M. HEWLETT, xxx-xx-xxxx
WILLIAM A. HINDMAN, xxx-xx-xxxx
STEVEN M. HOLTZHOUSER, xxx-xx-xxxx
GREGORY P. IRVINE, xxx-xx-xxxx
MARK L. IRWIN, xxx-xx-xxxx
HAROLD S. JACKSON, xxx-xx-xxxx
HENRY J. JENIK, xxx-xx-xxxx
MICHAEL C. JORDAN, xxx-xx-xxxx
CHARLES A. KELLY, xxx-xx-xxxx
PHILIP R. KOVACH, xxx-xx-xxxx
ERICK J. LERMO, xxx-xx-xxxx
GEORGE E. LINES, xxx-xx-xxxx
DAVID P. LOBIK, xxx-xx-xxxx
JONATHAN E. LOUGEE, xxx-xx-xxxx
MICHAEL S. MACIEL, xxx-xx-xx...
ROBERT P. MCCARTHY, II, xxx-xx-xxxx
MARK A. MELIN, xxx-xx-xxxx
JEFFREY A. MOORE, xxx-xx-xxxx
JAMES T. MOORE, JR, xxx-xx-xxxx
PAUL T. MOSEY, xxx-xx-xxxx
PATRICK C. MURRAY, xxx-xx-xxxx
PETER M. NELSON, xxx-xx-xxxx
STEPHEN G. NITZSCHKE, xxx-xx-xxxx
ROY A. OSBORN, xxx-xx-xxxx
TIMOTHY J. OTT, xxx-xx-xxxx
BRIAN T. PALMER, xxx-xx-xxxx
ROBERT S. PANDIS, xxx-xx-xxxx
SEAN M. PATRICK, xxx-xx-xxxx
PAUL S. PATTERSON, JR, xxx-xx-xxxx
RUSSELL J. PHARRIS, xxx-xx-xxxx
THOMAS J. READY, IV, xxx-xx-xxxx
DALE A. ROLAND, xxx-xx-xxxx
JOSEPH A. RUTIGLIANO, JR, xxx-xx-xxxx
KENNETH M. SINGER, xxx-xx-xxxx
DALE A. SLEDGE, xxx-xx-xxxx
FRANK D. SMITH, xxx-xx-xxxx
WILLIAM C. SMITH, xxx-xx-xxxx
PAUL J. STENGER, xxx-xx-xxxx
CRAIG Q. TIMBERLAKE, xxx-xx-xxxx
ROY L. TRUJILLO, xxx-xx-xxxx
THOMAS M. WILLIAMS, JR, xxx-xx-xxxx
PATRICK T. WILSON, xxx-xx-xxxx
JEFFERY C. ZANDER, xxx-xx-xxxx

*To be lieutenant*

PETER W. AHERN, xxx-xx-xxxx
JOSEPH F. AUGUSTINE, III, xxx-xx-xxxx
BRIAN M. BAGGOTT, xxx-xx-xxxx
EDWARD D. BANTA, xxx-xx-xxxx
INMAN R. BESSENGER, xxx-xx-xxxx
JOHN A. BEVING, xxx-xx-xxxx

KENNETH L. BINNING, xxx-xx-xxxx
FREDDIE J. BLISH, xxx-xx-xxxx
MARTIN E. BOUVERON, xxx-xx-xxxx
GREGORY T. BREAZILE, xxx-xx-xxxx
MARK A. BRENNAN, xxx-xx-xxxx
JAMES E. BROWN, xxx-xx-xxxx
LEX A. BROWN, xxx-xx-xxxx
JAMES R. BURCHFIELD, xxx-xx-xxxx
PETER J. CARZOLI, xxx-xx-xxxx
KENNETH R. CHAMBERS, xxx-xx-xxxx
JODI B. COHEN, xxx-xx-xxxx
BRIAN C. COLEBAUGH, xxx-xx-xxxx
JOSEPH W. COLLINS, JR., xxx-xx-xxxx
KEVIN B. CONROY, xxx-xx-xxxx
WILLIAM R. CUNNINGHAM, xxx-xx-xxxx
PETER W. CUSHING, xxx-xx-xx...
WESLEY V. DAVIS, III, xxx-xx-xxxx
WILLIAM J. DAVIS, III, xxx-xx-xxxx
HARRY DAVIS, JR, xxx-xx-xxxx
MARK C. DELUNA, xxx-xx-xxxx
DREW T. DOOLIN, xxx-xx-xxxx
TERRY M. DRESBACH, xxx-xx-xxxx
KURT M. EISGRUBER, xxx-xx-xxxx
TERRI E. ERDAG, xxx-xx-xxxx
TODD A. FELTON, xxx-xx-xxxx
DAVID S. FLORES, xxx-xx-xxxx
DAVID A. FLYNN, xxx-xx-xxxx
JEFFREY W. FULTZ, xxx-xx-xxxx
CHARLES M. GALLAGHER, xxx-xx-xx...
JEFFREY E. GAMBER, xxx-xx-xxxx
JOHN J. GAMELIN, xxx-xx-xxxx
AURELIO GARCIA, III, xxx-xx-xxxx
DAVID K. GARRETT, xxx-xx-xxxx
SCOT A. GAST, xxx-xx-xxxx
PAUL G. GAYAN, xxx-xx-xxxx
FRANCIS B. GILLIGAN, xxx-xx-xxxx
HAL M. GOBIN, xxx-xx-xxxx
MARK G. GOODMAN, xxx-xx-xxxx
WILLIAM P. GORDON, xxx-xx-xxxx
ALBERTO GUTIERREZ, xxx-xx-xxxx
WILLIAM B. HARRISON, xxx-xx-xxxx
DAVID P. HAWKINS, xxx-xx-xxxx
DREXEL D. HEARD, xxx-xx-xxxx
SCOTT M. HECKERT, xxx-xx-xxxx
CLARKE D. HENDERSON, xxx-xx-xxxx
PATRICK T. HERZOG, xxx-xx-xxxx
CLINTON M. HIGGINBOTHAM, JR., xxx-xx-xxxx
HARRY D. HINK, JR, xxx-xx-xxxx
CHRISTOPHET HIRSCH, xxx-xx-xxxx
RICHARD A. HOLLEN, JR, xxx-xx-xxxx
FREDERICK J. HOPEWELL, xxx-xx-xxxx
ALEXANDER H. HORAN, xxx-xx-xxxx
DOUGLAS C. HUSEMAN, xxx-xx-xxxx
WILLIAM M. IVORY, xxx-xx-xx...
BRADLEY S. JAMES, xxx-xx-xxxx
KIRK B. JANSEN, xxx-xx-xxxx
JEFFREY A. JEWELL, xxx-xx-xxxx
ANTHONY J. JOHNSON, xxx-xx-xxxx
MATTHEW L. JONES, xxx-xx-xxxx
BRIAN D. KERL, xxx-xx-xxxx
GLEN I. KEY, xxx-xx-xxxx
ANDREW N. KILLION, xxx-xx-xxxx
ROBERT R. KOSID, xxx-xx-xxxx
RICK L. LAIRD, xxx-xx-xxxx
BRYANT E. LANDEAN, xxx-xx-xxxx
LAURA LITTLE, xxx-xx-xxxx
BILLY L. LITTLE, JR, xxx-xx-xxxx
MULDROW D. LLOYD, xxx-xx-xxxx
DONOVAN J. LOHRENZ, xxx-xx-xxxx
RICHARD S. LONG, xxx-xx-xxxx
TODD LYMAN, xxx-xx-xxxx
MICHAEL P. MAHANEY, xxx-xx-xxxx
DIANE M. MARQUIS, xxx-xx-xxxx
CHARLES E. MARSHALL, JR., xxx-xx-xxxx
THOMAS P. MARTIN, xxx-xx-xxxx
CHRISTOPHET MAYETTE, xxx-xx-xxxx
EDWARD J. MAYS, xxx-xx-xxxx
SCOTT T. MCCLAIN, xxx-xx-xxxx
MICHAEL R. MCGUIRE, xxx-xx-xxxx
BRAD J. MCNAMARA, xxx-xx-xxxx
MARK P. MELZAR, xxx-xx-xxxx
PAUL C. MERRITT, xxx-xx-xxxx
PAUL A. MILLER, xxx-xx-xxxx
CHRIS W. MINER, xxx-xx-xxxx
PHILLIP D. MOORE, JR, xxx-xx-xxxx
HERBERT G. MORAN, III, xxx-xx-xxxx
JOHN C. MORTON, xxx-xx-xxxx
FRANK R. MOTLEY, JR, xxx-xx-xxxx
DAVID D. MYERSON, xxx-xx-xxxx
JOHN G. NETTLES, xxx-xx-xxxx
JOHN M. NEUMANN, xxx-xx-xxxx
WILLIAM J. NIX, xxx-xx-xxxx
JOHN L. OBRIEN, xxx-xx-xxxx
DAVID F. OVERTON, xxx-xx-xxxx
JOHN R. PARKER, xxx-xx-xxxx
RUSSELL A. PAULSEN, xxx-xx-xxxx
MICHAEL A. PRATT, xxx-xx-xxxx
GORDON K. PRICE, xxx-xx-xxxx
CHARLES E. PROTZMANN, xxx-xx-xxxx
KENT S. RALSTON, xxx-xx-xxxx
CLAY A. RAMSEY, xxx-xx-xxxx
KENNETH D. RANDALL, xxx-xx-xxxx
ALEJANDRO RODRIGUEZ, xxx-xx-xxxx
GREGORY T. ROPER, xxx-xx-xxxx
AMANDO RUIZ, III, xxx-xx-xxxx
GARY P. RUSSELL, xxx-xx-xxxx
MICHAEL H. RUTH, xxx-xx-xxxx
SHARON M. SALATHE, xxx-xx-xxxx
CHRISTOPHEJ SCHLAFER, xxx-xx-xxxx
WILLIAM P. SCHULZ, JR, xxx-xx-xxxx
BRUCE A. SHANK, xxx-xx-xxxx
PHILIP C. SKUTA, xxx-xx-xxxx
RANDY D. SMITH, xxx-xx-xxxx
WILLIAM B. SPAHN, xxx-xx-xxxx
EDWARD N. SPICKNALL, xxx-xx-xxxx
TIMOTHY R. STARK, xxx-xx-xxxx
JOHN C. STEVENS, xxx-xx-xxxx
ROGER L. STONE, xxx-xx-xxxx
STUART M. SUTLEY, xxx-xx-xxxx
FRANK J. SVET, xxx-xx-xxxx
KENNETH G. THOMPSON, xxx-xx-xxxx
TIMOTHY J. THOMPSON, xxx-xx-xxxx
PAUL TIMONEY, xxx-xx-xxxx
RICHARD P. TIRRELL, xxx-xx-xxxx
CHARLES J. TULANEY, xxx-xx-xxxx
MARK M. TULL, xxx-xx-xxxx
NICHOLAS M. VUCKOVICH, xxx-xx-xxxx
CLINTON D. WADSWORTH, xxx-xx-xxxx
JOHN W. WASEK, xxx-xx-xxxx
THOMAS M. WELDON, xxx-xx-xxxx
SCOTT P. WILLIAMS, xxx-xx-xxxx
EARNEST WILLIAMS, III, xxx-xx-xxxx
JAMES F. WILSON, xxx-xx-xxxx
KIN Y. WONG, xxx-xx-xxxx
STEVEN J. WOOD, xxx-xx-xxxx
CHRISTOPHEI WOODBRIDGE, xxx-xx-xxxx
KEVIN T. WOOLEY, xxx-xx-xxxx
KENNETH E. WYNN, xxx-xx-xxxx

## CONFIRMATIONS

### Executive nomination confirmed by the Senate October 12, 1990:

#### THE JUDICIARY

JOSEPH M. MCLAUGHLIN, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

THOMAS G. NELSON, OF IDAHO, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

JAMES B. LOKEN, OF MINNESOTA, TO BE U.S. CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

DIANE GILBERT WEINSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE U.S. CLAIMS COURT FOR A TERM OF 15 YEARS.

#### DEPARTMENT OF JUSTICE

STEPHEN D. EASTON, OF NORTH DAKOTA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF 4 YEARS.

WILLIAM C. ANDERSEN, OF CONNECTICUT, TO BE U.S. MARSHAL FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF 4 YEARS.

MARVIN COLLINS, OF TEXAS, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.