United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Tuesday, May 17, 1994*

(Legislative day of Monday, May 16, 1994)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we approach the Great Governor of the world, the Senate will be led in prayer by the Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson, please.

PRAYER

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

Let us pray:

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge him, and he shall direct thy paths.—Proverbs 3:5, 6.

Almighty God of all wisdom and all power, manifest Yourself to us today, Your availability, Your relevance, according to the proverb with which this prayer began. Enable the Senators to make Godroom in their deliberations, their negotiations, and decisions. As they struggle for compromise, protect them from personal animosities which alienate and delay resolution. Restrain their tongues from speaking words which will later be regretted and, despite all the pressure, Lord, may their thoughts be always issue-oriented. Direct their paths in the way of respect and love and peace to just and satisfactory ends.

In the name of the Prince of Peace. Amen.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from Minnesota [Mr. WELLSTONE] is recognized to speak for up to 15 minutes. The Senator from North Dakota [Mr. DORGAN] will be recognized to speak for up to 15 minutes.

The Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Thank you, Mr. President.

(The remarks of Mr. WELLSTONE pertaining to the submission of Senate Resolution 214 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. DORGAN addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Dakota [Mr. DORGAN] is recognized under the order for not to exceed 15 minutes.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 2118 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, today the Federal Reserve Board will meet, as always, in secret. These folks, I am sure well dressed, will go into their room, close the door, shut out the light, shut out the public, and make a decision that will affect every single American. Their decision is how high will interest rates go. Some predict today they will increase interest rates once again. If they do, it will be another wrongheaded mistake by the Federal Reserve Board.

I have here today a letter I received 2 days ago from the Chairman of the Federal Reserve Board, Mr. Alan Greenspan. In this lengthy, fascinating letter, Mr. Greenspan explains to me, as a result of my complaints, why the Federal Reserve Board has chosen to put the brakes on the American economy; why they have decided to increase interest rates in order to fight what is some perceived inflation threat.

I do not intend to share this letter with my colleagues at this point. But sufficient to say, I will come to the floor later today to, I hope, applaud the restraint of the Federal Reserve Board if they meet and decide not to increase interest rates today. But, if not, to severely criticize the Federal Reserve Board for making yet another mistake in trying to apply the brakes on the American economy, exactly when the American economy needs more propellant, more opportunity, more growth to create more jobs.

There is not over the horizon the threat of inflation. The Producer Price Index last week showed a 0.1 percent decrease, not an increase; the Consumer Price Index showed a 0.1 percent increase—very modest—indices of producer and consumer prices. There is simply not the threat that the Federal Reserve Board describes.

I hope today when the Federal Reserve Board meets it will consider the interests of the producers in this country, the people who woke up this morning to go to a business they started and they created, a business where they risk their money to open the doors, a business where they have invested their everything to try to make a living and they find they confront a monetary policy that is wrongheaded. This monetary policy, plain and simple, is a monetary policy that accommodates the financial money center banks, the financial interests in this country, but in my judgment is a monetary policy that injures the economic interests of producers in this country—it injures them at exactly the wrong time.

So I hope when I come to the floor later today it is to compliment the Fed rather than criticize them, but I am fully prepared, if the Federal Reserve Board increases interest rates once again this afternoon, to come to the floor to describe why I think the Federal Reserve Board is wrong and why I think their actions hurt this country.

Mr. President, I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The PRESIDENT pro tempore. The presence of a quorum having been questioned, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Was the leaders' time reserved, Mr. President?

The PRESIDENT pro tempore. Time has been reserved.

NPR'S DEATH ROW COMMENTARIES

Mr. DOLE. Mr. President, 2 years ago, when Congress passed legislation reauthorizing the Corporation for Public Broadcasting, we passed a reform amendment strengthening the longstanding requirement that taxpayer-subsidized public broadcasting offer objectivity and balance in its programming. Events during the past several days, despite a positive outcome, raise questions about public broadcasting's commitment.

Yesterday, taxpayer-supported National Public Radio was scheduled to start running commentaries by a convicted killer on death row. The commentator was to be Mumia Abu-Jamal, convicted of the cold-blooded murder of Philadelphia police officer Daniel Faulkner in 1981. Taxpayer-subsidized NPR was to pay Abu-Jamal, the founder and former information minister of the Philadelphia chapter of the Black Panthers, $150 per commentary.

NPR argued that the Abu-Jamal commentaries would bring a "unique perspective" to public radio's coverage of crime and punishment. That one-sided "unique perspective" argument offered little comfort to the law enforcement community, the victims of crime, or the American taxpayer pumping money into the public broadcasting system.

Officer Michael Lutz, President of the Philadelphia Fraternal Order of Police, argued:

> I was under the impression he was supposed to be punished. This man is a cold-blooded killer whose appeals went to the highest court in the land, and he's getting a radio show out of the deal. It's not fair to the family of the slain officer * * *.

Philip Jenkins, a professor of history and criminal justice at Penn State University, added that Abu-Jamal is

> Somebody with a heavily political motive. Somebody like this will attract the more emotional, intellectual following, and with someone on death row, the chances of getting some kind of pardon are higher.

I am all for diversity on the airwaves, but these commentaries would have sent the wrong message at the wrong time. The last time I checked, we were trying to fight crime, not promote the fortunes of convicted murderers through taxpayer-supported public broadcasting.

After the justifiable public uproar about NPR's unique commentary plan, the taxpayer-subsidized radio network did the right thing, and Sunday canceled the death row commentaries. In announcing the about-face, NPR Managing Editor Bruce Drake conceded "serious misgivings" about the appropriateness of the commentaries, admitting "We had not arranged for other commentaries or coverage on the subject of crime, violence, and punishment that provided context or contrasting points of view."

I applaud NPR's candor in admitting its mistake. However, it is disturbing that NPR had apparently forgotten until the last minute the need to provide the balance and objectivity required in its programming, and did not wake up until Abu-Jamal had reportedly recorded at least 10 commentaries and the public got wind of the venture.

We all know that this is sort of bizarre. I cannot believe it happened, but it did happen, using taxpayers' money to subsidize National Public Radio. I think it is time that we take a look at it again, and again, and again, because who knows what is happening.

Mr. President, this episode raises sobering questions, not only for NPR, but for the taxpayer-funded Corporation for Public Broadcasting, which has oversight authority over NPR and provides much of its funding.

When it comes to public broadcasting, American taxpayers should get the balance and objectivity they are paying for. In this case, the public uproar helped pull the plug just in time. How can we be certain similar mistakes will be averted in the future? One way we can make certain is to have closer oversight by the Congress. We are giving hundreds of millions of dollars so they can go out and subsidize programs. Some are very good, some are good, some are mixed, and some are terrible. I attempted to raise this question a couple of years ago and was roundly criticized by most everyone in public broadcasting.

It seems to me that Congress has a great deal of responsibility when it comes to taking taxpayers' money from the State of Kansas, from the State of West Virginia, or from anywhere else, and even thinking about putting it into some program where somebody on death row, a convicted cop killer, would be profiting from his commentary. I did not believe it when I first read it, but I confirmed that it was true.

I am pleased that the program is canceled. But I think we need to be on the alert because those who probably thought up this idea will probably be thinking up some others that could be just as harmful and just as bad.

WILLIAM C. GREEN, JR., PUBLISHER OF THE HUNTSVILLE TIMES AND THE HUNTSVILLE NEWS

Mr. HEFLIN. Mr. President, I was deeply saddened by the death of Bill Green today. I had the opportunity to get to know him well as a journalist and friend over the years, and we always had a very good relationship.

Bill's role in the rapid growth of the Huntsville Times over the last 9 years was instrumental, as he led the paper through significant production upgrades and saw its circulation increase dramatically. Bill also played an important role in his community as a leader of many civic and cultural organizations in the Huntsville area. At the State level, the World War II veteran was a member of the Board of Directors of the Public Affairs Research Council of Alabama; a board member of Leadership Alabama; a member of the TVA Community Relations Council; and member of the Board of Directors of the North Alabama Science Center.

Bill Green was one of those people who became such a fixture within his profession and community that we thought he would be around forever. His total dedication to the field of journalism together with his personal commitment to serving the Huntsville area and State, made him one of those rare individuals who everyone respected and admired. His death leaves a void for all those fortunate enough to have known and worked with him over the years that will be hard, if not impossible, to fill.

I extend my sincerest condolences to Bill's wife, Janie, and their entire family in the wake of their tremendous loss.

RETIREMENT OF MAYOR CHESTER W. GROBSCHMIDT

Mr. KOHL. Mr. President, I rise today to honor an outstanding public servant, Mayor Chester W. Grobschmidt of South Milwaukee, WI. After 9 years as an alderman and 28 years in city hall, he retired from municipal government this April 18. Throughout Wisconsin, people consider his tenure one of the most successful in the State's history.

The citizens of South Milwaukee will attest to Mayor Grobschmidt's many contributions to their community. He has improved municipal services, including the city administration building and street department. South Milwaukee can now feel more secure with Mayor Grobschmidt's work on the city's firefighting facilities and wastewater treatment center. Students and professionals alike can thank him for South Milwaukee's expanded library. The mayor also established the Chester A. Grobschmidt senior center in the city administration building for senior citizens' enjoyment and edu-

cation. These are Mayor Grobschmidt's legacies; he is a tough act to follow.

I applaud the mayor for epitomizing good, effective municipal government. The residents of South Milwaukee will always remember fondly his qualified and stable leadership. I wish Mayor Grobschmidt a happy, well-deserved retirement.

LET'S GET MOVING ON BOSNIA

Mr. DECONCINI. Mr. President, late last week we had some significant votes here in the Senate about what we should be doing in Bosnia and Herzegovina. Specifically, we addressed the issue of lifting the arms embargo currently imposed on Bosnia and Herzegovina. I would like to make a few brief remarks about this issue.

There were two separate votes, which caused some confusion, especially since they both passed by a narrow 50–49 vote. When one looks at it closely, however, there is really no division in the Senate regarding support for lifting the arms embargo. Ninety-two Senators voted "yes" to at least one of the two amendments; only seven are not in support of lifting the embargo at all. Differences lie on whether we should do so unilaterally or on the basis of allied agreement and U.N. approval. I, for one, find the embargo so reprehensible and illegal, and view the international community's opposition to lifting it so wrong, that I have joined the 49 other Senators who stated their support for a unilateral lifting.

A strong message is being sent here. Virtually every Senator has asked the President to take action. The vote last week was not just in favor of lifting the arms embargo; it was in favor of doing something to stop the Serb militants from accomplishing their huge land-grab. If the international community, including the United States, would have demonstrated that the situation in Bosnia and Herzegovina was of genuine concern and that something was really being done to try to address it effectively, we never would have had the votes last week.

The alternative chosen so far is essentially to cover inaction with talk. Over the weekend, for example, in Geneva the United States, Russia, and several European countries adopted another new plan, which calls for a 4-month cease-fire and for a 51 to 49 split of Bosnia and Herzegovina. The cease-fire could allow the Serb militants to consolidate their holdings, and the division suggested is well below the 58 to 42 the Bosnian/Moslems and Croats have themselves called for. Meanwhile, fighting in northern Bosnia continues. What can such a plan accomplish in thwarting one-sided aggression and genocide?

A further point involves the Congress. We rightly agree that something needs to be done, and we chose lifting the arms embargo as the thing to do. I agree with that; the arms embargo should never have been applied to Bosnia and Herzegovina in the first place, and that a U.N. member has an inherent right to self-defense. But we should not delude ourselves. Many support lifting the arms embargo because there is little risk to us if it backfires. It's easy, because we will not be held accountable if something goes wrong. For some, it is also an easy, convenient way simply to attack the President.

It was pointed out during our debate that there are practical problems in actually arming the Bosnians, and even though I support it unequivocally, I do not see trying to arm the Bosnians as an alternative to NATO action, specifically airstrikes, to end Serb aggression. Although previous NATO airstrikes were threatened or carried out in such a minimalist manner that their effectiveness was limited, they did have an effect. They also illustrated that the international community may be closer to taking this type of action than lifting the arms embargo.

Massive airstrikes against Serb positions, political headquarters, and supply lines are the quickest and likely the most effective way to stop the carnage. They could more easily put the Serbs on the run before they attack the peacekeeping forces on the ground. They would keep the Serbs from engaging in an all-out offensive to destroy what is left of Bosnia and Herzegovina before that country could be armed to defend itself. They would possibly make arming the Bosnians completely unnecessary in the first place. If they do not, they would at least make the sufficient arming of the Bosnians easier.

If we really support the Bosnians, then let's support them this way. Having denied them the right to self-defense for so long, we are obligated not just to restore that right to them so late in the game but to make up the difference by offering our protection as well, and not just of a few select places designated as "safe havens." If we are unwilling to be responsible and extend to them the protection of NATO, our calls for lifting the arms embargo may be nothing more than symbolism or, perhaps worse, a cover for our own unwillingness to be responsible and say that saving people from genocide is worth some risk.

Of course, it is often difficult for Members of Congress to make responsible choices that have risks attached to them, especially in an area of Presidential prerogatives where the President himself is reluctant. I want President Clinton to express leadership, and to ask us to support him in extending NATO protection in Bosnia and Herzegovina. And I want to see the Senate, and the Congress as a whole, prepared to support him in that effort.

As a final point, let me say that lifting the arms embargo on Bosnia and Herzegovina is a matter of principle, for that U.N. member has been a victim of Serb aggression. But it has not been the only U.N. member to be such a victim and negatively affected by the arms embargo.

Croatia, too, felt the brunt of militants supported by a nationalist Serbian leadership and a Yugoslav military machine. While the lives lost there were fewer, they were still many. Croatia rarely sees a day that there is not still some fighting, and almost one-third of the country remains occupied by Serb militants in contravention of an agreed U.N. plan. Yes, Croatia was inspired by Serb successes and its own nationalist inclinations to engage in its own land grab in Bosnia and Herzegovina, but that period seems over. Thanks to the United States, in its exercise of leadership, Bosnian Moslems are not fighting against Bosnian Croats. Instead, they have formed the basis for a Bosnian federation, which has entered into a confederal and mutually beneficial arrangement with Croatia itself.

If we are to be consistent in our application of our principles, and if we want to encourage further positive developments, we should respond to this situation as well. I, therefore, think we need at least to support efforts to get the United Nations more active in Croatia itself. Perhaps we should also consider alternatives that would include lifting the arms embargo on Croatia as well.

To conclude, Mr. President, none of us wants to see more arms pumped into the Balkans. None of us wants to see American fighter pilots put in harm's way. However, because we have been unwilling to take some risks early on, the situation we are now confronting is now much worse, and more dangerous as well. If we do not do something now, it will continue to get much worse and more dangerous, but we will eventually be compelled to get involved, as we have during earlier conflicts. We have an interest in stopping this conflict, and in doing so now rather than later.

THE CSCE PLAN FOR MOLDOVA

Mr. DECONCINI. Mr. President, a little-publicized, but promising initiative by the Conference on Security and Cooperation in Europe and could end the long-simmering civil conflict that has torn Moldova apart for 2 years—if Russia decides to reject its imperialist policies, and support a good-faith, multilateral approach to resolving the conflict.

Thanks to Stalin-mandering, a small sliver of Moldova known as Transdniestria extends eastward over the left bank of the Dniester river. The population is about 40 percent Moldovan, 28 percent—highly Russophobe—Ukrainian, and 25 percent Russian.

Claiming to fear Moldova's possible unification with Romania, and charging the Moldova's capital, Chisinau with discriminatory policies, the mostly Slavic political leadership in the Transdniestrian capital, Tiraspol, engineered a secessionist movement in 1991 that produced a pro-Soviet Dniestr Republic.

Imported Cossack allies and firepower provided by Russia's 14th Army, which is stationed in the area, helped consolidate the Dniestr Republic during several bloody months in the summer of 1992. Moreover, elements of the Dniestr Republic Guard crossed the river and seized the city of Bendery on the right bank. Today, a tripartite—Russian, Moldovan, and Transdniestrian—military force keeps a tenuous peace in the conflict area. In effect, Moldova has been partitioned.

Nor is this, as Russians like to say, accidental. On February 2, an article in Rossiiskie Vesti concluded that the use of the 14th Army against Moldova was not a decision of its commanding general, but had been authorized and coordinated by the Ministry of Defense, determined to retain a valuable strategic outpost oriented towards the Balkans. In addition, an alliance of so-called Russian democrats, military officials, Russian nationalists, and the Moscow press largely lined up with the Dniestr Republic.

In response to a request from the Moldovan Government, a CSCE mission was sent to Moldova to assist in mediation efforts. The mission has produced a commendable proposal designed to preserve Moldova's territorial integrity, while providing a special status for Transdniestria. Chisinau would handle defense and foreign relations, while some functions would be carried out jointly with Tiraspol, such as finance and justice.

Tiraspol would, among other things, control its own regional budget and educational system. If Moldova in the future reunifies with Romania, Transdniestria would have the right to determine its own political status. And Russia's 14th Army goes home on an accelerated timetable.

Recently, direct talks between President Snegur of Moldova and President Smirov of Transdniestria produced a communique in which both sides pledged to resolve their differences peacefully. Meanwhile, Moldova accepted Russia's status as mediator in the Moldova-Transdniestria talks based on assurances that the CSCE proposal would be the basis for negotiations.

Unfortunately, when the Russian mediator finished reworking the CSCE proposal, it didn't look much like the original. Significantly, there is no reference to the withdrawal of the 14th Army.

Mr. President as a member of the CSCE, Russia should support the CSCE's mediation efforts rather than undermine them. As is the case in the Baltics, there is no reason for Russia to maintain military forces on the territory of independent Moldova. I urge Russia to adhere to CSCE principles and to be part of the solution, not the problem.

SAINTS CONSTANTINE AND HELEN CREEK ORTHODOX CHURCH WESTLAND, MI

Mr. LEVIN. Mr. President, this Sunday, May 22, 1994, the Saints Constantine and Helen Creek Orthodox Church of Westland, MI, will celebrate the groundbreaking for the construction of their new church complex. When completed, the church will encompass 12,000 square feet and seat 680 people, making it the largest Greek Orthodox church in the State of Michigan.

The construction of this church is the last step in the fulfillment of the longstanding dream of the community of Sts. Constantine and Helen. Founded in 1930 by a few dedicated immigrants, the church had its beginnings in a storefront on the corner of Grand River and 14th Street in Detroit. As the community grew and prospered, a new facility was built on Oakman Boulevard at West Chicago. Again, the community continued to grow and so a new home was needed.

Seven years ago the community purchased land to relocate their church. The construction was divided into two phases to allow time to raise funds. Phase I of the project, the building of the Hellenic Cultural Center, was completed in 1986. Parishioners currently attend Sunday services in the cultural center where a large photograph of the beautiful white marble altar from Oakman Boulevard stands as a reminder of the boxed pieces, currently in storage, that will be reconstructed in the new church.

Phase II, the construction of the church itself, will at long last provide a permanent home for the community and its beautiful ikonostasio (altar cover), pulpit, and altar table. Today the community has 450 families who worship and participate in religious, social, and cultural activities. With the addition of the church to the already existing Hellenic Cultural Center, they will have the opportunity to expand its activities and grow with its parish. I congratulate the many dedicated people of Saints Constantine and Helen for their dedication and hard work, and join them in their joy and celebration. I wish the parishioners many years of happiness in their new home.

RICHARD NIXON

Mr. WARNER. Mr. President, as our Nation lays to rest one of our greatest Presidents, I pause with deep humility to think of the many things this fine American did for our country, and for me.

Elected officials are often asked this question, especially by young aspirants: "How did you get into politics?" My answer is clear, straightforward: Richard Nixon.

In 1960, I was enjoying an exciting career as an assistant U.S. attorney when a call came: Would I be interested in becoming a speech writer at the White House? In April, I seized the opportunity. Subsequently I transferred to the Advance Team, as the Nixon campaign team began to form. In that capacity, I have traveled with the Vice President and his lovely wife, Pat, to many States from coast to coast. Advance men can often form personalized working relationships with their principals. I value the many occasions when the Vice President would share his wisdom on a wide range of subjects—political and nonpolitical—to those of us at his side on our trips.

Here is an example of the man I admire. On the morning following his defeat in the November 1960 Presidential election, I was tasked with making arrangements to fly the Vice President and Mrs. Nixon, along with 30 to 40 staff members, back to Washington. It was a sad day. Having boarded all staff on the plane, I was escorting the Vice President up the ramp when he paused, in his usual polite way, to thank a mechanic who was readying the plane for the long flight from California to Washington. The mechanic was holding a small, portable radio tuned to news of the election coverage—particularly reports alleging voter fraud, particularly in the city of Chicago. Two of the Vice President's senior political advisers, also standing there listening, turned to the Vice President and suggested that the question of fraud might make it possible to contest the election.

The Vice President, without a moment's hesitation, said "absolutely not, for the succession of the Presidency in America, the Nation that stands as a symbol of hope and freedom, should never be placed in doubt for even a minute, following an election." Then he turned and walked up the ramp of the waiting plane. I confirmed this was the first time he voiced that decision, a decision he adhered to steadfastly in the days that followed when others brought up the same question of contesting the election.

In the years that intervened between 1960 and 1968, I would occasionally visit with the Vice President and perform a few volunteer services. Then, in 1968, I was pleased to be asked to join the campaign team, and was given senior management responsibility in a newly formed organization, Citizens for Nixon, based in Washington, DC. After his election to the Presidency, I gained valuable experience working for sev-

eral months in his transition office. There I expressed an interest in working in the Department of Defense to Defense Secretary-designate Mel Laird, and eventually received an appointment as Under Secretary of the Navy. In 1972, the President gave me the honor of serving as Secretary of the Navy. During the 5 years I spent in the Defense Department, I had many opportunities to observe the President's steadfast support for a strong national defense and his understanding of the critical relationship between defense capabilities and a strong foreign policy—a view he articulated to the end.

In the spring of 1974, the President asked me to visit him in Key Biscayne, FL, to discuss his concerns with the direction in which the celebration of our Nation's bicentennial was moving. I spent a memorable afternoon with the President and General Haig. The President expressed his hope that the bicentennial celebration would eventually lift the spirits of the Nation from what he then perceived as a tragic abyss in the wake of the gathering clouds of Watergate. He asked me to visit him again a week or so hence to provide him with ideas as to how to encourage the maximum number of people across America to become involved in programs they—not government—desired to honor their local communities and our great Nation.

During the followup meeting, the President reiterated his strong belief that the bicentennial should be celebrated in a simple, historic way, with maximum participation on the village greens of every crossroad, town and city in America. He wanted the larger, expensive programs kept in balance so a not to obscure individual participation. The decision was made that I would take on responsibility for the Federal role, as head of the newly congressionally established Bicentennial Administration. Again, I am grateful to the President for appointing me to this post. Working at the local and State levels of government with city councilmen, mayors, and Governors gave me the breadth of experience which enabled me to be a better rounded candidate for the U.S. Senate.

History is documenting, and will continue to document, the greatness of the 37th President of the Untied States. I remember so vividly his many visits to the Senate, when he would patiently sit with groups, large and small, of Senators from both parties and freely share his experiences—his mistakes as well as his successes—in the hope that we could better serve he goals of America through the legislative process. He loved his service in the House and Senate.

Thank you, President Nixon.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as of the close of business on Monday, May 16, the Federal debt stood at $4,587,879,355,962.65. This means that on a per capita basis, every man, woman, and child in America owes $17,597.57 as his or her share of that debt.

SIMPLE JUSTICE—BROWN VERSUS BOARD OF EDUCATION 40 YEARS AGO TODAY

Mr. KENNEDY. Mr. President, today we commemorate the 40th anniversary of the landmark Supreme Court decision Brown versus Board of Education. Forty years ago today, the Nation's highest Court spoke in one clear, unanimous and ringing voice that the Constitution's guarantee to every person of the equal protection of the laws prohibits official school segregation in the Nation's public schools. Brown was more than just a judicial decision—it was a powerful call to redeem the promise of the Constitution and remove the stain of racism from the fabric of our society.

The legal battle that produced the Brown decision was a heroic one. The battle was led by Thurgood Marshall, the brilliant lawyer who headed the NAACP's team of lawyers and who later served with such magnificent distinction himself on the Supreme Court. Justice Marshall was aided by one of the best legal teams ever assembled: William T. Coleman, Jr., who later served brilliantly as Secretary of Transportation; Louis Pollak, Robert Carter, and Constance Baker Mottley, all of whom went on to serve with great distinction on the Federal bench. Two other outstanding lawyers on the team were James Nabrit and Jack Greenberg. Their goal was to abolish the hateful Jim Crow laws that existed throughout much of the Nation, and with Brown and the cases that followed it, they succeeded.

Today is a day to remember one of the greatest triumphs in our judicial history, and to honor the people who turn the dream of justice for millions of our people into a constitutional reality.

A recent article by Patricia J. Williams which appeared in the Nation, which is entitled "Among Moses' Bridge-Builders," describes the history of the decision, and its continuing legacy, in the lives of the Brown children. Although their names will be forever attached to the cause of desegregation, the Browns insist that they not be made into icons, that it is the struggle of all African-Americans that deserve to be remembered and honored. The article is a moving and thoughtful account. I commend it to my colleagues, and I ask unanimous consent that it may be printed in the RECORD.

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

[From the Nation, May 23, 1994]

AMONG MOSES' BRIDGE-BUILDERS

(By Patricia J. Williams)

When The Nation asked me to write an essay on the fortieth anniversary of Brown v. Board of Education, I felt as though I were being called to the grandest project of my career. This is the case, after all, that shaped my life's possibilities, the case that, like a stone monument, stands for just about all the racial struggles with which this country still grapples. When The Nation also suggested that a conversation with the Brown family might be the focal point of such an essay, I actually got nervous. The symbolic significance of the case had definitely made them Icons of the Possible in my mind: Oliver Brown, now deceased, whose name is first in a list of many others and whose name, as a result, became the reference for all subsequent generations of discussion; Leola Brown Montgomery, Oliver Brown's widow; Linda Brown Thompson, the little girl (formerly a teacher for Head Start and now program assistant for the Brown Foundation) on whose behalf Oliver Brown sued; the middle daughter, Terry Brown Tyler; and Cheryl Brown Henderson, the youngest daughter and also an educator.

"Don't make icons of us," was just about the first thing out of Cheryl's mouth, when she finally responded to the gushy messages I left on the answering machine at the Brown Foundation, the organization she founded and heads. But . . . but . . . , I said, distinctly crestfallen.

"It was pure accident that the case bears our name," she continued, with no chance for me to argue about it. "It's just a name, it could have been a lot of people's names. It's not our case. Ask us about the Brown Foundation."

The foundation is an organization dedicated to "setting the record straight," as Cheryl Brown Henderson put it. "I'm afraid that a lot of people believe the lawsuit to be something that happened as a very isolated incident, when in fact there were many, many cases that preceded it. We're talking about public school cases that began back in 1849, and, in Kansas, began in 1881." I knew that, of course—"of course" only because teaching the history of civil rights is a big chunk of what I do for a living. I'm even someone who's always complaining that too often the civil rights movement has been too neatly condensed into a few lionized personalities, rather than understood as a historical stream of events. But still—this was different somehow, this was Brown, after all, and here I was in the presence of Legend Incarnate and, well, inquiring minds do want to know. Of course, I didn't quite put it that way. I just asked them to share the sustained insight and privileged perspective that residing inside the edifice of great moments in social history might bring.

"Our family came to Kansas for the railroad in 1923," said Mrs. Leola Brown patiently, apparently quite used to cutting through the exuberent excesses of questions with no borders, never mind answers. "A lot of the early African-American and Hispanic residents of Topeka came for employment purposes. The headquarters of the Santa Fe railroad were here. There were decent wages and you could be part of a union and have job security, those sorts of things."

"When did you join the N.A.A.C.P.?" I pressed, longing for detail about what, at odd

moments, I caught myself thinking of as "our" story. "Were there any significant events in your life that precipitated your involvement in the case against the school board?"

"We joined for no specific incident. It was in 1948 or '49, something like that. There was nothing specific. It was everything. We were discriminated against in all phases of life. We couldn't go to the restaurants or the shows, or if we did, we had to sit in a certain place, we had to go through a certain door to get there . . . " she trailed off. "It wasn't only about the schools, you see, it was about all of the things that were against us, all the rejection and neglect, all the things we could not do here."

As Mrs. Leola Brown spoke, describing conditions that affected millions of blacks as well as her family, I understood why her daughters were so insistent on my not making this story into an exceptional one. It was a story that couldn't, shouldn't be made into private property; it was an exemplary story, but far from unique.

My family too joined the N.A.A.C.P. not because of a great event but because of all the ordinary daily grinding little events that made life hard in the aggregate. I knew the back of the bus stories, the peanut gallery stories, the baggage stories, the having to go to the bathroom in the woods stories—the myriad, mundane, nearly invisible yet monumentally important constraints that circumscribed blacks, and not only in the South.

My father, who grew up in Savannah, Georgia, during the 1920s and '30s, remembers not only the inconveniences but the dangers of being black under Jim Crow. "You had to be careful of white people; you got out of the way, or you'd get hurt, immediately. If you saw a white person coming, you got off the sidewalk. Don't make too much noise. Know which side of the street to walk on. You were always conscious of the difference. The big conversation in all 'colored' homes was just that, color. It affected everybody."

"That's exactly why Brown is indeed 'our' story," advised a friend of mine who, being fifteen or so years older than I, was old enough to have worked for N.A.A.C.P causes and gone on enough marches to have worn out many pairs of shoes. "The civil rights movement was all about ordinary people who weren't necessarily on the road to Damascus. If some lent their names, other lent their backs, or their expertise or their lives. It was life-threatening work after all, so nobody did it to get their name up in lights; you did it because there was no alternative. Neither fame nor anonymity existed as issues per se—that's come later, as the country seems to have sorted out who it going to remember and what it will forget. It was about group survival. You were always thinking about what would make it better for the children."

I pressed the Browns about this centrality of segregation in people's lives. Segregation affected most aspects of daily life, they explained, but they noted that the situation in Kansas was not exactly like what was going on in many Southern states. The neighborhood in which the Browns lived, for example, was fully integrated at the time the suit was initiated, and unlike many children even today, Linda Brown, in the wake of the case, was able to finish her education at integrated schools. The Browns describe most of the neighborhoods in Topeka as having been pretty stable over time—although the Browns' old neighborhood and the all-white school that was the object of the suit no longer exist. "The highway has come through." Although Topeka did undergo some of the divisive and segregating effects of urban renewal programs, the Browns say Topeka did not undergo major upheavals during the 1960s, as did most Northern cities where white flight changed "urban centers" into "inner cities" overnight.

How, I asked, does one reconcile the racism that produced the rigid school segregation in Topeka yet permitted people to live side by side? "You have to understand Kansas history," said Cheryl Brown Henderson. "The ear that won the state the name of 'Bleeding Kansas' was born out of the battle about whether it would be a slave state or not. . . . When Kansas became a free state, it became a kind of promised land for people of African descent. They started moving in great numbers westward, and out of the South." She described the struggle to integrate schools as well over a hundred years old, typified by such compromises as when "the Kansas legislature in the 1870's enacted a law saying that if you were a community of a certain size, you could have segregated schools, but if you were a small community, and it was not economically feasible to have a school for, say, three children—then you could not segregate on the basis of race. This has always been a place of great contrasts and contradictions."

Kansas is indeed unique in history, but it is not alone in the peculiarity of its contradictory attitudes about race. Perhaps part of the difficulty in reviewing the years since Brown with anything like a hopeful countenance is that we as a nation have continued to underestimate the complicated and multiple forms of prejudice at work in the United States. Segregation did not necessarily bar all forms of racial mixing; its odd, layered hierarchies of racial attitude were substantially more complicated than that. My grandfather, for example, was a doctor who owned many of the houses in the neighborhood where he lived. "Dad's tenants were white, Irish," says my father. "But I never even thought about where they went to school. We all lived kind of mixed up, but the whole system made you think so separately that to this day I don't know where they went to school." There is an old story that speaks to the profundity of these invisible norms: Three men in the 1930s South set out to go fishing in a small boat. They spent the morning in perfectly congenial and lazy conversation. At lunchtime, they all opened their lunchbuckets and proceeded to eat, but not before the two white men put an oar across the middle of the boat, dividing them from their black companion.

The continuing struggle for racial justice is tied up with the degree to which segregation and the outright denial of black humanity have been naturalized in our civilization. An aunt of mine who is very light-skinned tells of a white woman in her office who had just moved from Mississippi to Massachusetts. "The North is much more racist than the South," she confided to my aunt. "They don't give you any credit at all for having white blood." This unblinking racial ranking is summarized in the thoughts of James Kilpatrick, who stated the case for Southern resistance in a famous and impassioned plea:

For this is what our Northern friends will not comprehend: The South, agreeable as it may be to confessing some of its sins and to bewailing its more manifest wickednesses, simply does not concede that at bottom its basic attitude is "infected" or wrong. On the contrary, the Southerner rebelliously clings to what seems to him the hard core of truth in this whole controversy: Here and now, in his own communities, in the mid-1960s, the Negro race, as a race, plainly is not equal to the white race, as a race; nor, for that matter, in the wider world beyond, by the accepted judgment of ten thousand years, has the Negro race, as a race, ever been the cultural or intellectual equal of the white race, as a race.

This we take to be a plain statement of fact, and if we are not amazed that our Northern antagonists do not accept it as such, we are resentful that they will not even look at the proposition, or hear of it, or inquire into it.

Dealing with the intractability of this sort of twisted social regard is what the years since Brown have been all about. Legal remedy after legal remedy has been challenged on the basis of assertions of not being able to "force" people to get along, that "social equality" (or, these days, "market preference") is just not something that can be legally negotiated. One of the attorneys who worked on the original Brown case, Columbia University School of Law Professor Jack Greenberg, dismissed these arguments concisely: "You have to wonder," he says, "how it is that Plessy v. Ferguson, which made segregation the law for about sixty years, didn't come in for the same kinds of attacks as 'special engineering.'"

Have you been disappointed by the years since 1954? I asked Mrs. Leola Brown Montgomery. Of course, she said. And then added, "But I don't think that anybody anticipated the country's response. The attorneys, the parents, we didn't really understand the insidious nature of discrimination and to what lengths people would go to not share educational resources: leaving neighborhoods en masse because African-American children could now go to the school in your neighborhood. Not offering the same kinds of programs, or offering a lesser educational program in the same school—I don't think anybody anticipated what we've ended up with * * * But we're currently still in the midst of the country's response, in my opinion."

Duke University School of Law Professor Jerome Culp has observed that the litigators and activists who worked on Brown in the early 1950s assumed at least three things that have not come to pass: (1) that good liberals would stand by their commitments to black equality through the hard times; (2) that blacks and whites could come to some kind of agreement about what was fair and just—that there was a neutral, agreed-upon position we could aspire to; (3) that if you just had enough faith, that if you just wished racism away hard enough, it would disappear.

"Growing up," says my father, "we thought we knew exactly what integration meant. We would all go to school together; it meant the city would spend the same money on you that it did on the white students. We blacks wouldn't be in some cold isolated school that overlooked the railroad yards; we wouldn't have to get the cast-off, ragged books, We didn't think about the inevitability of a fight about whose version of the Civil War would be taught in that utopic integrated classroom."

The Brown decision itself acknowledged the extent to which educational opportunity depended on "intangible considerations" and relied "in large part on 'those qualities which are incapable of objective measurement but which make for greatness.'" Yet shaking the edifice of education in general since 1954 has become vastly more complicated by the influence of television, and the task of learning racial history has been

much confounded by the power of mass media.

"We've become a nation of soundbites," says Cherly Brown Henderson. "That millisecond of time to determine our behavior, whether it's behavior toward another individual, or behavior toward a product we might purchase, or our behavior with regard to what kind of housing or community we want to live in—I really think we allow that millisecond to determine far too much of our lives. When you take something that short and infuse it with a racial stereotype, and no other information is given, the young person looking at that—even the older person who spends most of his time watching television—that's all they know. How can you expect them to believe anything else? They're not going to pick up a book and read any history, do any research, or talk to anybody that may in fact be able to refute the stereotype."

In addition to stereotypes, perhaps the media revolution has exacerbated the very American tendency to romanticize our great moments into nostalgia-fests from which only the extremes of Pollyanna-ish optimism or Malthusian pessimism can be extracted. The Hollywood obsession with individual charismatic personalities diminishes the true heroism of the multiplicity of lives and sacrifices that make for genuine social change. Such portrayals push social movement out of reach, into the mythic—when in fact it emanates from the realm of the solidly and persistently banal. For all the biblical imagery summoned to inspire the will to go on with the civil rights struggle in this country, if the waters have parted at any given moment, perhaps it has been more attributable to all those thousands of busy bridge-builders working hard to keep Moses' back covered—just people, just working and thinking about how it could be different, dreaming big, yet surprised most by the smallest increments, the little things that stun with the realization of the profundity of what has not yet been thought about.

My father muses: "It's funny * * * we talked about race all the time, yet at the same time you never really thought about how it could be different. But after Brown I remember it dawning on me that I could have gone to the University of Georgia. And people began to talk to you a little different.

The white doctor who treated my family in Boston, where I grew up, "used to treat us in such a completely offhand way. But after Brown, he wanted to discuss it with us, he asked questions, what I thought. He wanted my opinion and I suddenly realized that no white person had ever asked what I thought about anything."

Perhaps as people like my father and the doctor have permitted those conversations to become more and more straightforward, the pain of it all, the discomfort, has been accompanied by the shutting down, the mishearing, the turning away from the euphoria of Brown. "It has become unexpectedly, but not unpredictably, hard. The same thing will probably have to happen in South Africa," sighs my father.

When Frederick Douglass described his own escape from slavery as a "theft" of "this head" and "these arms" and "these legs," he employed the master's language of property to create the unforgettable paradox of the "owned" erupting into the category of a speaking subject whose "freedom" simultaneously and inextricably marked him as a "thief." That this disruption of the bounds of normative imagining is variously perceived as dangerous as well as liberatory is a tension that has distinguished racial politics in America from the Civil War to this day. Perhaps the legacy of Brown is as much tied up with this sense of national imagination as with the pure fact of its legal victory; it sparkled in our heads, it fired our vision of what was possible. Legally it set in motion battles over inclusion, participation and reallocation of resources that are very far from resolved. But in a larger sense it committed us to a conversation about race in which all of us must join—particularly in view of a new rising Global Right.

The fact that this conversation has fallen on hard times is no reason to abandon what has been accomplished. The word games by which the civil rights movement has been stymied—in which "inner city" and "underclass" and "suspect profile" are racial code words, in which "integration" means "assimilation as white," in which black culture means "tribalism," in which affirmative action has been made out to be the exact equivalent of quota systems that discriminated against Jews—these are all dimensions of the enormous snarl this nation has been unraveling, in waves of euphoria and despair, since the Emancipation Proclamation.

We remain charged with the task of getting beyond the stage of halting encounters filled with the superficial temptations of those "my maid says blacks are happy" or "whites are devils" moments. If we could press on to an accounting of the devastating legacy of slavery that lives on as a social crisis that needs generations more of us working to repair—if we could just get to the enormity of that unhappy acknowledgment, then that alone might be the paradoxical source of a genuinely revivifying, rather than a false, optimism.

The most eloquent summary of both the simplicity and the complexity of that common task remains W.E.B. Du Bois's essay "On Being Crazy":

After the theatre, I sought the hotel where I had sent my baggage. The clerk scowled.

"What do you want?" he said.

Rest, I said.

"This is a white hotel," he said.

I looked around. Such a color scheme requires a great deal of cleaning, I said, but I don't know that I object.

"We object," said he.

Then why, I began, but he interrupted.

"We don't keep niggers," he said, "we don't want social equality."

Neither do I, I replied gently, I want a bed.

SHANNON WILBANKS

Mr. HOLLINGS. Mr. President, most Members of this body are blessed with a core group of loyal, reliable aides—key staff members who have served with great competence and loyalty for many years. That certainly describes Shannon Wilbanks, who is leaving my staff this week after a decade of tremendously dedicated service to the Senate and to the people of South Carolina.

Mr. President, Shannon proudly displays at her desk a photograph of a 3-year-old girl wearing a "Hollings for Senate" boater hat. That little girl was Shannon Wilbanks. While still in high school, Shannon began working as an intern in my Charleston office. She continued in that capacity while a student at the College of Charleston, later coming on board as a full-time staff member during my 1986 Senate race.

After that election, I prevailed upon Shannon to transfer to my Washington office to work directly with me. As a perfectionist with a penchant for organizing herself and others, she was perfect for the job. Time and time again, I tapped her talents as a writer, as well as her ability to deal with constituents with tact and excellent judgment.

I will never forget the extraordinary job Shannon did in the wake of Hugo in 1989. In the months after the hurricane, she worked out of my Charleston office to help organize assistance to thousands of victims, especially those in her hometown of Summerville, which was particularly hard hit by the storm. Countless people later wrote to me or thanked me personally for the work she did in helping put their lives and homes back together.

Mr. President, Shannon will soon take up new responsibilities with the chamber of commerce in Greenville, SC. She has already put down roots in the Greenville community, where she is active in volunteer efforts of the local junior league. Despite her new venue and new challenges, Shannon will remain very much a member of the extended Hollings family. I appreciate this opportunity to thank her for a job well done, and to wish her every success in the years ahead.

FEMA EMERGENCY FOOD AND SHELTER PROGRAM

Mr. BOND. Mr. President, I state my strong opposition to a proposal in the President's budget for fiscal year 1995 to transfer the administration of the Emergency Food and Shelter Program from the Federal Emergency Management Agency [FEMA] to the Department of Housing and Urban Development [HUD]. For over 10 years, the Emergency Food and Shelter Program has been a very successful program that is exemplified by a partnership between FEMA and 6 highly creditable and effective national nonprofits.

This partnership is responsible for a program that has been able to deliver aid both effectively and efficiently to countless thousands of persons in thousands of communities facing hunger and homelessness. In particular, the Emergency Food and Shelter Program provides assistance to over 10,500 nonprofit and governmental local agencies which provide direct service to homeless and hungry people nationwide. This program has distributed over $1 billion since it began in 1983 and, in many States, is the largest source of Federal assistance available to service providers for homeless people. This program funds food banks, soup kitchens, and shelters as well as purchasing directly food and shelter for the homeless. It also provides emergency home-

lessness prevention services, notably rent or utility assistance, for individuals on the verge of becoming homeless.

What makes this program even more special and unusual is that over 97 percent of the funding goes directly to people needing emergency food and shelter; this means that less than 3 percent of the funding goes to administrative costs.

I urge my colleagues to oppose the transfer of the Emergency Food and Shelter Program from FEMA to HUD. As they say: Don't fix it if it isn't broken. This program isn't broken and it doesn't need fixing. This program does not need to be transferred to HUD; to do so risks the tremendous success of the program.

SENATOR ROBERT DOLE'S COMMENCEMENT SPEECH AT THE CITADEL

Mr. THURMOND. Mr. President, 152 years ago, The Citadel, the Military College of South Carolina, was established in the port city of Charleston. A single gender school of demanding discipline, it has successfully educated thousands of young men in academics and leadership skills. Citadel graduates have become successful leaders in both the public and private sectors, as well as having been involved in every American military conflict since the Mexican War. Thanks to its effective teaching techniques, The Citadel has earned an enviable reputation as one of the best public colleges in the United States, and there is not a better military school anywhere in this Nation than The Citadel.

This past Saturday, my good friend and colleague, Senator ROBERT DOLE, addressed the 1994 graduating class of cadets. Appropriately, Senator DOLE chose as the subject of his speech the challenges of leadership that face our great Nation and the young men who were receiving their diplomas. He reflected upon the words of a great South Carolinian, James F. Byrnes, who said that "* * * the difference between average people and great people can be explained in three words—'and then some.'" Senator DOLE challenged his individuals to seek and accept responsibility, to be good leaders "and then some."

Mr. President, Senator DOLE's remarks were enthusiastically received and he made a magnificent impression on everyone who attended Saturday's ceremonies. I know that I speak for every Member of this body when I say that we are proud of Senator DOLE; he is a brave soldier, a true patriot, a great American, and a true leader.

I ask unanimous consent that a copy of Senator DOLE's remarks be inserted in the RECORD following my remarks.

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

AMERICAN LEADERSHIP * * * AND THEN SOME

(By Senator Bob Dole)

Thank you, General Watts. It's a privilege to join the class of 1994, their parents, friends, and all members of the Citadel family.

This is my first visit to this historic institution, although I have long heard about its excellence from a number of sources.

As you know, my colleague, Fritz Hollings, is a proud graduate of The Citadel, and asked me to extend his greetings today.

But, it was the invitation of South Carolina's senior Senator—one of the most respected members of the Senate—Strom Thurmond—that brought me here today. Strom is a Clemson graduate, but he did tell me that he was Governor when the South Carolina legislature established The Citadel on December 20, 1842.

I've learned a great deal from Strom over the years, but one thing he never told me was that Citadel cadets are so knowledgeable about agriculture. I've been to hundreds and hundreds of farms in Kansas, and not one farmer has ever told me that his cows "walk and talk, and are full of chalk."

GENERAL MARK CLARK

Another connection we share is the fact that like countless Citadel men, I, too, looked up to Mark Clark.

As you know, before he became president of The Citadel, General Clark commanded the United States Fifth Army throughout the World War II European campaign. As a young man, I was a member of the 10th Mountain Division of the fifth army. While I never met General Clark, every soldier knew that the man Winston Churchill called "the American Eagle" was firmly in charge.

"AND THEN SOME"

After the war was over, another South Carolinian—James Byrnes—would help to rebuild Europe as President Truman's Secretary of State. And I begin my brief remarks today by quoting this former South Carolina Governor and Senator.

Byrnes said, "the difference between average people and great people can be explained in three words—"and then some." The top people did what was expected—and then some . . . They met their obligations and responsibilities fairly and squarely—and then some. They were good friends—and then some. They could be counted on in an emergency—and then some."

THE DIFFERENCE BETWEEN AVERAGE NATIONS AND GREAT NATIONS

I believe the words "and then some" could also be used to describe the difference between average nations and great nations. The top nations do what is expected—and then some. They meet their obligations and responsibilities, fairly and squarely—and then some. They are good friends—and then some. They can be counted on in an emergency—and then some.

Perhaps the supreme example of this type of leadership occurred nearly 50 years ago on the beaches of Normandy—D-Day. And along with Senator Thurmond—who is a D-Day veteran—I will be part of a Congressional delegation traveling to Europe next month for ceremonies honoring the 50th anniversary of D-Day.

A HALF CENTURY OF AMERICAN LEADERSHIP

D-Day marked more than the beginning of the end of World War II. It also marked the beginning of what has been—under Republican and Democrat presidents alike—a half-century of American leadership.

It was American leadership that rebuilt Europe after World War II.

It was American leadership that stood for freedom in places like Korea and Vietnam.

It was American leadership that stood guard in Europe and around the world throughout the long Cold War.

It was American leadership that has kept alive any hope for a lasting peace in the Mideast.

It was American leadership that kept Saddam Hussein from controlling the world's oil supply.

It was American leadership that has always prodded nations towards the path of freedom for all their citizens.

And throughout its history, Citadel graduates have been part and parcel of the great tradition of American leadership.

THE SACRIFICE OF CITADEL GRADUATES

In fact, fifty years ago, those who sat where you do now knew that they soon might be on their way to Europe or the Pacific—and 277 Citadel men made the ultimate sacrifice for their country.

Over forty years ago, those who sat where you do now knew that they soon might be on their way to Korea—and 31 Citadel men died there for their country.

Twenty years ago, those who sat where you do now knew that they soon might be on their way to Vietnam—and 66 Citadel men have their names inscribed on the walls of the Vietnam Memorial in Washington, D.C., just as they do on the walls to the entrance of Summerall Chapel here at the Citadel.

THE COSTS OF LEADERSHIP

Today, thankfully, there are no wars on the horizon. This is so only because of the willingness of your predecessors to put their lives on the line for freedom . . . only because of a half-century of American leadership.

Has this leadership been expensive? You bet it has—both in terms of lives lost and money spent in battle and in standing guard during the long Cold War.

But has this leadership been worth the cost? Absolutely. The world is a safer, freer, and better place because of American leadership.

THOSE WHO QUESTION AMERICA'S WORLD LEADERSHIP

Today, however, there is talk around meeting tables in Washington, D.C., and kitchen tables across America, that fifty years of leadership is enough.

There are those who think that America must focus on fixing her own problems.

There are those who say that American soldiers should take orders from commanders appointed by the United Nations.

There are those who see America not as the leader of the free world, but just as another member of NATO, with no more or no less responsibility than any other country.

There are those who believe that "and then some" is far, far, too much.

PRESERVING AMERICA'S GLOBAL LEADERSHIP

That same talk and those same voices could also be heard in the days following our victory in World War II. But America's leaders remembered then that they had listened to those voices just twenty years before—in the aftermath of World War I. And they remembered that America checked out of world affairs, retreated into isolationism, and slashed our defense—actions that would be proven foolhardy when a dictator marched across Europe and bombs fell at Pearl Harbor.

America's leaders remembered. And Presidents from Truman to Bush made the tough decisions, and they made sure that America remained the leader of the free world.

Let me share with you some words of the greatest foreign policy President of our time—Richard Nixon.

Just last January, President Nixon said, and I quote—

"Some are tired of leadership," "they say (America) carried that burden long enough. But if we do not provide leadership, who will? The Germans? The Japanese? The Russians? The Chinese? Only the United States has the potential . . . to lead in the era beyond peace. It is a great challenge for a great people."

President Nixon was right.

AMERICAN LEADERSHIP STILL NEEDED

The United States may be at peace, but events in North Korea, Bosnia, and elsewhere remind us that dictators still exist, that aggressors who are not stopped will only grow more brazen and more blood-thirsty, and that leadership—American leadership—is still required. And sometimes, that leadership will mean that Americans will make the supreme sacrifice, as Patrick McKenna, a member of the Citadel class of 1989, did on April 14, during Operation "Provide Comfort" in Iraq.

Is it America's destiny to be the world's policeman? No. There are crimes against humanity and crimes against freedom committed every day in countless countries across the world. And America does not go in, guns blazing, to make it right.

LEADING BY EXAMPLE

Instead, we do what we have always done—and what we did during the long Cold War—we lead by example. We show the world that democracy is not just one method of Government—it is the only method that allows individuals to reach their full potential. And we also lead by using our economic and moral influence to bring about change, as we did in South Africa.

And if we are to lead by example . . . if we are to maintain our credibility as an economic and moral influence, then we must deal with our problems—like the deficit and like crime. And we must remember and teach the values that made America great—values like decency, honesty, and individual responsibility.

MILITARY STRENGTH AND DIPLOMATIC RESOLVE

But let me be clear: leading by example will not always suffice. For military strength and diplomatic resolve is essential to successful leadership. Without them, our example—no matter how meritorious—will be rejected or ignored.

There will be times when America's interests are at stake. . . . When freedom is threatened . . . when, like it or not, we are the only "cop on the beat." And unless we are prepared to stand by while our interests are threatened or destroyed, we must be prepared to lead—in combination with friends and allies if possible, but alone if necessary.

It is hard to imagine the world you would enter today had the attitude that some now advocate prevailed the past half-century. Imagine that D-Day never happened, and that Hitler's armies conquered Europe. Imagine that Khrushchev and not Nixon was the winner of the "Kitchen Debate," and America's children lived under communism, rather than Russia's children living under democracy. Imagine Saddam Hussein in control of the majority of the world's oil supply.

THE FUTURE AND AMERICAN LEADERSHIP

Class of 1994, I don't know what the future holds for you—but I do know that the world cannot afford a future without American leadership.

It is my hope that fifty years from now, some members of this class will travel to Europe to attend the centennial celebration of D-Day.

And I hope you will be able to say then, what we have been able to say for the past fifty years. We are Americans. We are the leaders of the free world. And we will remain so for many years into the future . . . and then some.

COMMENDING PRESIDENT CARTER ON SUCCESSFUL MONITORING OF DEMOCRATIC ELECTIONS IN PANAMA

Mr. PRESSLER. Mr. President, I commend President Jimmy Carter for his role in the successful democratic elections in Panama on May 8, 1994. President Carter led an American delegation of observers to the Panamanian elections for the second time. He also led the U.S. delegation in 1989. Sunday was the first time Panamanians had voted for a President since the 1989 election. That election was annulled by General Noriega when it became obvious his candidate would lose to Guillermo Andara. The United States subsequently sent troops to Panama to restore order and democracy in the wake of Noriega's destruction.

President Carter was among those who denounced the 1989 election as fraudulent. In the recent election, he played an instrumental role in ensuring fair voting procedures. Turnout for the May 8 vote about 78 percent—far better than U.S. Presidential elections. The President-elect is American-educated businessman Ernesto Perez Balladares. President Carter called his election a victory for democracy.

I was fortunate to accompany President Carter as an observer of the Nicaraguan elections in 1990. As Americans, it is our duty as stewards of the greatest democracy in the world to work with those around the world who seek democracy, sometimes in the face of great danger and persecution. President Carter is a shining example of that special American spirit—a commitment to assisting those who seek freedom, justice, and democracy in other parts of the world.

CONCLUSION OF MORNING BUSINESS

Mr. BAUCUS. Mr. President, will the Chair please advise the Senate the regular order.

The PRESIDENT pro tempore. Under the order previously entered, morning business is closed.

SAFE DRINKING WATER ACT AMENDMENTS OF 1994

The PRESIDENT pro tempore. The Senate will resume consideration of S. 2019, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2019) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes.

The Senate resumed consideration of the bill.

Mr. BAUCUS. Mr. President, this is now the third day that we are on the Safe Drinking Water Act. We began consideration on Friday. We resumed consideration Monday. Under the order that the Senate agreed to, all amendments to the Safe Drinking Water Act must be offered by the close of business tomorrow, Wednesday.

I strongly urge Senators with amendments to take up their amendments now, to bring their amendments over to the floor so that the committee can deal with those amendments. There are a good number of those amendments to which the committee will agree. Some other amendments will take some work. I think then they can be agreed to. Other amendments may not be agreed to, and we would have to debate them, with a vote on those amendments.

I might also say, Mr. President, that tomorrow, it is my understanding—I do not mean to prejudge the leaders' intentions—there will be a Joint Session of Congress to hear the Prime Minister of India. In addition, there might be another period during which the Senate will be unable to conduct business. Just another way of saying, Mr. President, that today is a good day for Senators to bring up amendments. The Senate might be in late tonight, but to avoid being in too late tonight, I urge Senators to bring over their amendments now. It is 10:15; it is the morning; it is daylight. There could not be a more opportune time to bring up amendments, to debate amendments, debate them fully so that the Senate can dispose of them in a most orderly manner.

I again urge Senators to come up now, bring their amendments now, because I just know, we all know from observing, the early bird tends to get the worm. Ten fifteen is not very early, but it is early enough. I hope the Senators do come over and offer their amendments.

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

The PRESIDENT pro tempore. The presence of a quorum having been questioned, 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 PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as if morning business for 10 minutes.

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

AFTERMATH OF THE BUDGET BATTLE: THE CHICKEN LITTLES WERE WRONG AGAIN

Mr. GRASSLEY. Mr. President, now that the smoke has begun to clear from a recent adoption of the budget resolution in the Congress, I can say as always, when you look back on the RECORD, it allows us to compare what was the rhetoric during that debate and the predictions of that debate against what really happened.

I am thinking in terms of the arguments that were used during the Exon-Grassley debate that, No. 1, the cuts were not specific enough, and that they should be more specific and across the board; and second, if Exon-Grassley were to be adopted, all the cuts would come out of defense.

Mr. President, we are beginning to see that some of the wild comments made by opponents of Exon-Grassley were baseless and unfounded.

I would like to speak to what has happened now since the budget resolution was adopted to prove what I had said during that debate did materialize.

I want to remind my colleagues that the "Chicken Littles" in this town claimed that defense would be slashed and burned under Exon-Grassley. They claimed that 75 to 80 percent of the cuts would come out of defense.

Now, we have had in the meantime the House Appropriations Committee determining its 602(b) allocations. Defense outlays have been reduced by only $500 million. And that is out of a total of more than $3 billion in savings.

Thus, the defense cuts were only 16.5 percent of the total savings, not the 75 to 80 percent that the people in this body said that defense would be cut. It also happens that the House will be much tougher on defense than either the Senate or the conference. That is kind of the historical perspective I get. So the final contribution from defense will likely be much less than the 16 percent already designated by the House in the 602(b) allocations.

The moral of this story, Mr. President, is the same moral that we learned when we read the book "Chicken Little" in grade school: "When Chicken Little squawks, nobody listens."

So, Mr. President, I want to congratulate my colleagues in this body for eventually not heeding the cries of fear and extortion from the big spending machine in this town.

I point this discrepancy out, because it is a discrepancy between rhetoric and reality, for the permanent RECORD, in the hopes that future Congresses similarly will not heed baseless, ill-founded claims.

A second favorite argument of the big spenders is that we must be specific with our cuts during the budget process. How many times did we hear that said on the floor of this body, that Exon-Grassley cuts are across board; they are not specific enough? There were lots of specific cuts that were put in the budget by both the House and the Senate. But they did not show up in the conference report.

For example, the Senate voted 97 to 1 in support of the Gorton amendment to cut funding for the furniture for bureaucrats. How much more specific can you get than that? That money would then be used to fund the Edward Byrne Antidrug Program. In the conference report, the program is funded, but the specific cuts disappeared.

The Senate also voted 93 to 5 to support funding for certain children's health programs, and it was paid for by cutting travel funds for bureaucrats. Again, how much more specific can you get? But again, those specific cuts disappeared in the conference process.

The House included also many specific programs that were to be cut. These included the National Science Foundation, various energy programs, the Coast Guard, and others.

I have scoured this conference report on the budget resolution and I cannot find these specific cuts listed, either.

So the moral of that story is an answer to a riddle: When is a cut not a cut during the budget process? The answer: When it is specific.

The bottom line, it seems to me, Mr. President, is that those arguments, by the people who fought Exon-Grassley, saying that we were not specific enough and that it would all come out of defense, are nothing more than a red herring.

The budget process is set up to be general first and specific later. In the budget process, you determine the size of the pie—that is what Exon-Grassley did. In the appropriations process and the next step, you determine how that pie will be sliced. So do not ever buy the argument that you have to specify where cuts are going to come from during the budget process. There is an old Polynesian saying, and it goes like this:

The block of wood should never dictate to the carver.

Well, the Budget Committee supplies the block of wood; the appropriators do the carving. If we do not shrink the pie first, we will never get our arms around the spending problem. The success of Exon-Grassley this year, modest though it was, is an illustration that this formula can work. Without it, you play right into the hands of the big spenders here in this town.

PRINCE GEORGES COUNTY'S "FEMALE ACHIEVERS" PROGRAM

Mr. GRASSLEY. Mr. President, on another item, an article appeared in the Washington Post on Monday, May 16, discussing a program for at-risk youth that is finding great success in Prince Georges County. The program is called "Female Achievers" and works with middle school girls who come from difficult home lives and deal with challenging issues.

This program is to be commended for its work with at-risk teenagers and for its three ground rules: First, no lying; second, confidentiality among group members; third, communication with parents.

I recently added an amendment to the Goals 2000: Educate America Act giving parents the right to know what nonscholastic activities were taking place in the lives of their children during school hours. I said during the debate on that amendment that I do not oppose activities taking place on school grounds that are nonscholastic, but what I do oppose is those activities taking place behind parents' backs.

The third ground rule of the Female Achievers program addresses this concern. It requires communication with parents. This is the way it should be. Considering the difficulty of the times in which we live, there is a time to address nonscholastic issues in school. I commend the promoters of the Female Achievers program for including communication with parents as one of their three ground rules.

I ask unanimous consent that the article from the Washington Post be printed in the RECORD.

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

[From the Washington Post, May 16, 1994]

THE OTHER HALF OF AT-RISK YOUTH

(By Retha Hill)

Principals and teachers, counselors and relatives regard Teshema Marshall with wonder. At 12 years old, she drank hard liquor, puffed marijuana and knew what the streets of Prince George's County looked like in the wee hours of the morning.

But today, Teshema, 13, is different. And everyone agrees that the change came in Room 111 of Hyattsville Middle School.

That's where the weekly meetings are held for Female Achievers, a group of girls whose short life stories have made grown women cry. Some have been raped. Others go home to mothers addicted to crack cocaine. And some started to abuse drugs and alcohol and became sexually active before the baby fat began melting from their faces.

What they have accomplished through weekly tell-all sessions at the school is remarkable, say teachers, administrators, counselors and parents. By standing and facing the group each Tuesday, and their mothers once a month, the 42 girls are learning to take responsibility for their actions and have formed bonds with each other that Hyattsville administrators say have dramatically decreased suspensions and improved attendance.

"The Female Achievers showed me [drugs and alcohol use] aren't worth it because your friends will lead you all sorts of ways and you've got to do for yourself," Teshema said. "When you realize all the stuff you've got going for you, it is easy to stop."

With their emphasis on self-control and self-respect, the Female Achievers are part of a growing effort in the nation's urban areas to turn the spotlight of help on young girls.

All too often, say educators and community volunteers, girls are the forgotten element in the campaign to save the nation's at-risk youth. while boys are more likely to fall prey to violent crime—homicide is the leading cause of death for young black men, for example—girls are increasingly involved in destructive activity.

"Most of the programs, even with recreation, focus in on boys and saving our generation of young men," said Sheri DeBoe. She is the coordinator of the mayor's Turning Points program, which oversees separate groups that focus on personal responsibility and self-respect for young men and women at seven District junior high schools.

"But when you go the junior high schools and talk to the teachers and counselors, they will tell you the girls are worse than the boys—cursing and fighting." DeBoe said. "Through Turning Points, the [coordinators] are recognizing the fact that our girls are being ignored and are putting together programs that specifically address girls."

Similar efforts are popping up around the country. Denver holds an annual conference for black single mothers and their daughters. There are several church-based organizations in Detroit. The American Association of University Women funds an organization of young women that works on self-esteem issues in Danville, Va. The Montgomery County chapter of the NAACP has begun sessions for girls on violence and sexually transmitted diseases, an outgrowth of highly publicized rape allegations last year involving teenagers in Germantown.

Established organizations such as Delta Sigma Theta, a historically black sorority, and the Girl Scouts of the Nation's Capital are expanding their traditional outreach programs to at-risk girls. The Girl Scouts troop at Carver Terrace Apartments, for example, combines sessions where girls can talk about their lives with activities such as planting trees. In Baltimore, one troop is made up of the daughters of female prison inmates.

ALARMING NUMBERS

All are trying to address the same horrifying statistics on crime, drug abuse and sexual activity. From 1983 to 1993, the number of girls arrested for all crimes increased 25.4 percent, compared with a 15.2 percent rise for adolescent males, the FBI reported. For violent crimes, the increase was 83 percent for girls and 54 percent for boys.

Substance abuse is decreasing among teenagers, according to statistics provided by the National Center for Health Statistics. Nevertheless, 18 percent of girls 12 to 17 years old drink alcohol regularly and 4 percent smoke marijuana.

National teenage pregnancy rates remained stable through the 1980s, but the birth rate increased 23 percent from 1986 to 1990 because the rate of abortions is declining, the Alan Guttmacher Institute reported last year in a comprehensive study of teenage sexual behavior.

Girls struggle with depression and eating disorders and try to commit suicide at a rate that is four to five times that of boys, although boys succeed more often, said Anne Bryant, executive director of the American Association of University Women, which commissioned a highly regarded study on the self-esteem of girls.

Support groups like Female Achievers offer girls an opportunity to talk about sexuality, conflict and competition and problems at home, as well as providing a cheering section for their achievements. The groups also teach girls basic hygiene, proper language and other skills.

Female Achievers began last year with 15 girls after several of them complained to Principal Joseph Lupo and Elsie Jacobs, the secretary in the guidance department, that their needs were being ignored.

Like most schools in Prince George's, Hyattsville has an active Black Male Achievement program, funded by the school system to help black boys perform better in school. There is no corresponding funding for girls' groups. The 30 mentoring groups in the country for girls must compete for grants of $1,000 or less from the school system.

Jacobs agreed to organize the girls after noticing that many were not doing well academically because of a host of other problems, including sexual and physical abuse, neglect from their mothers, and alcohol and drug abuse in the home. Some girls' homes are in such disarray that they depend upon the school for clean clothes and basic supplies such as soap and feminine products, she said. The girls were acting out their problems by fighting and experimenting with drugs and sex.

"It's helped me quite a bit," said Vice Principal Linda Waples, who handles the disciplinary cases at the 750-student school. "By these girls' venting a lot of problems and learning to handle their problems, they are not coming to the [principal's] office."

This year, there have been seven suspensions of Female Achievers, out of 250 for the entire school, Vice Principal Lawrence Leahy said. Average daily attendance is 91 percent for the school and 92 percent for Female Achievers members. While members' grades are still below those of other girls at the school, Leahy said, eight are on the honor roll and the girls are making progress.

The change in the Female Achievers has been so dramatic that Jacobs is frequently approached by teachers and administrators to allow other troubled young women to join. There are 100 black, white and Latino girls—nearly a fourth of the female population at the school—on the waiting list.

Jacobs has no formal training as a facilitator. Relying on her experience as the mother of six girls and two boys and the former wife of an alcoholic, she set the ground rules: No lying. Confidentiality among group members. Communication with parents.

"I'm a strong female," Jacobs said, "but some of these things these kids have to deal with, in my greatest imagination I couldn't begin to deal with." She often fields calls at night or on the weekends about "her girls," some as young as 12, who have stayed out all night, fought with their mothers or come home high.

"We have to accept that this age group has sex, they do drugs," she said. "Once we accept it . . . then you start working on things that can change it."

There is a motto, of sorts, in the Female Achievers: If you are grown enough to do it, you shouldn't be ashamed to talk about it.

Each Tuesday morning session begins with some housekeeping business from Jacobs. Then she will call on a girl to stand and tell about her latest indiscretion or achievement.

A PLACE TO CONFESS

On one Tuesday, a 14-year-old was called to her feet by Jacobs. In a barely audible whisper, she admitted staying out all night the previous Saturday. She told about going out with a 16-year-old, then having sex with him, which she said she did not enjoy but did to keep peace with her "friend."

Her story was greeted with gasps. Several girls rose to remind her of her reputation and the dangers of AIDS and pregnancy.

Afterward, the girl said she realized that she was wrong and that she had worried her mother, who had called police. She said she didn't mind discussing what she had done with the other Female Achievers. "I have somebody to talk to," she said. "They've got the same problems I have."

At another Tuesday session, a girl was abruptly asked by Jacobs whether she was doing drugs. "Wh-why," the girl stammered, then unsuccessfully tried to suppress giggles. She had come into the meeting late, walking slowly and unsteadily.

"Because you are acting like someone who is high." Jacobs said. The girl stopped grinning. She started to protest, then was quiet.

There are girls in the group who slip. But there are many more who are thriving and now have the language to talk to their parents about the issues that are bothering them. It was at a Female Achievers meeting that Nyah Farrar, 13, told her mother that her mother's drinking was killing her, that she had missed four weeks of school last year because she was worried her mother would get drunk and hurt herself.

"We came to the first meeting and she said in front of everyone that I was drinking and she wanted me to stop," said Terra Farrar, who said she began drinking after losing her job and is a recovering alcoholic. "At first. [I felt] shame. It lasted about 30 seconds. Then I was proud that she was strong enough to do it." This year, Nyah has missed only four days and is on the honor roll.

The monthly Saturday meetings are held at the Seat Pleasant Police Department, in a neighborhood where many of the girls live. Law enforcement officials talk about the laws on statutory rape, drug use, child abuse and neglect. Occasionally, a counselor will come to encourage families that need it to get help. The meetings are usually overflowing with mothers, aunts and grandmothers.

Teshema and her mother, Renee Ramey, have been in counseling. But it wasn't until Teshema joined the Female Achievers that the two really began to talk. Ramey said her daughter rarely strays far from home now and is more conscientious about her studies. Ramey recalled the daughter who used to stay out all night and twice tried to commit suicide.

"Teshema had just given up," said Ramey, a secretary, who blamed the abusive relationship she was in for a lot of her daughter's problems. "Her attitude was, 'I'm just determined to go down this wrong road.' She's made a 360-degree turnaround. Now we talk. We have a 100 percent better relationship."

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

SAFE DRINKING WATER ACT AMENDMENTS OF 1994

The Senate continued with the consideration of the bill.

Mr. EXON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. Mr. President, will the Chair kindly advise me on the present matter before the Senate?

The PRESIDENT pro tempore. What is the Senator's question?

Mr. EXON. Mr. President, I would like to ask for the regular order, and I would like to make some comments with regard to the Safe Drinking Water Act and the amendments thereto.

The PRESIDENT pro tempore. The Senate is considering the Safe Drinking Water Act, and the Senator is recognized.

Mr. EXON. Mr. President, I rise to encourage support for the managers' compromise amendments to the Safe Drinking Water Act legislation. I also commend Senators BAUCUS and CHAFEE, as well as their staffs, for working out with a group of us to put the amendment before us that I think will allow the passage of this important measure. It has taken months of painstaking negotiations and considerable effort to reach this point, and I believe our negotiations have resulted in a good product.

The absolute necessity of reforming the Safe Drinking Water Act has been clear to me for some time. I can hardly convey to my colleagues the depths of frustration held by State and local officials whose job it is to comply with the existing law. By far, the vast majority of those folks want to provide clean, safe drinking water and feel overwhelmed by a regulatory framework that simply does not make sense in the real world.

The amendment before us meets the essential requirements for reform that I have held for some time: that the new law must help small communities; that the Environmental Protection Agency must be required to base its regulations on science instead of fear; that we absolutely have to get rid of the arbitrary standard setting requirements; and, finally, that we do this in a way that reduces costs while maintaining public health and public safety.

I have listened to our Governor and other State and local officials for months on this subject. Finally, through long, hard negotiations, we can say to them that we have heard their legitimate concerns and have acted upon them. I am pleased and proud to have played a part in bringing a commonsense solution back to them and to the Senate.

It has been a difficult balancing act. I suspect that there are interests on both sides of this issue that wish they had gotten more, but, in the end, I believe this represents a fair and a workable solution that ought to be embraced by all.

Although I am confident this measure will receive the support of the Senate, I remain uncertain about our prospects when the bill is in conference with the House of Representatives. Obviously, the House has not yet acted on a bill, and it would be premature to prejudge the situation at this point. I simply point out to my colleagues that I believe it is incumbent upon us to follow this legislation closely and ensure that the final package we send to the President meets the criteria that I have outlined above. We ought not wash our hands of this legislation once we pass a bill in the Senate.

With regard to the conference with the House, I also want to raise the issue of what we can do to compromise without giving up the essentials that I think are tremendously important that we worked out on the Senate bill.

Mr. President, I, once again, salute the two leaders of this bill who have gone through painstaking efforts to make sure that we have a bill not only that is workable but a bill that can pass the Senate. To them, I say thank you for listening, thank you for caring, and thank you for providing the leadership to get this job done.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I take my hat off to the Senator from Nebraska. He has worked long and hard with the committee to make this a better bill. I have had many discussions with the Senator from Nebraska in the last couple of months, as with his colleague, Senator KERREY from Nebraska. It is no idle statement, Mr. President, to say very clearly that this is a better bill because of the work of the Senator from Nebraska.

The two areas that he particularly focused on were viability—that is, the bill is now modified pursuant to amendment by the Nebraska delegation, frankly, so that States can now set up voluntary viability procedures. States, at their own discretion, would have the power to set up a process to help encourage very small water systems to combine, consolidate, and to share administrative expenses, and so forth, so that they are in the nature of a larger system rather than a smaller system.

Second, the Senator has helped to improve the bill with respect to monitoring the flexibility; that is, enabling States to have their own State monitoring system more easily so that States can better take advantage of the provision of the bill to have different monitoring standards, thereby lowering the costs to small systems.

That is no idle matter, Mr. President. The State of Michigan, for example, now spends about 10 to 12 percent on monitoring—the small systems in the State of Michigan—because Michigan still has its own State monitoring program, compared to what small systems would otherwise have to spend if the State did not have its own flexible monitoring program. The Senator from Nebraska has come a long way to improve the bill so that States can more easily set up their own State monitoring systems so that small communities would not have to monitor as much as they otherwise would.

We are not sacrificing public health here, Mr. President, because, currently, often a small community would have to monitor for a contaminant, even though the contaminant is not found.

That does not make much sense. So we are providing generally that where a contaminant is not found then a small system or a large system need not monitor looking for that contaminant for 3 years before it must then check again to see whether the contaminant is there or not. Previously a system would have to monitor one quarter of each of 3 years, which was essentially an annual requirement.

Again, I thank my colleague from Nebraska and appreciate the work he has done.

The PRESIDENT pro tempore. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my good friend and colleague, the very able and talented chairman of the committee, for his kind remarks. Once again I salute him and his counterpart from Rhode Island for charting us a course through some very troubled water to the end product that I think will be a good one.

Once again, there were a lot of us who had some major concerns in this area. We were listened to. They heard us and they have acted.

Again I hope that the Senate will support this version of the important legislation and we can get on with making sure that we do have indeed safe drinking water for all Americans.

I thank the Chair and I yield the floor.

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1711

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

The PRESIDENT pro tempore. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1711.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . SEWAGE TREATMENT ALONG THE UNITED STATES-MEXICO BORDER.

(a) DEFINITIONS.—As used in this section:

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

(2) BORDER STATE.—The term "border State" means each of the following States:

(A) Arizona.

(B) California.
(C) New Mexico.
(D) Texas.

(3) COMMISSION.—The term "Commission" means the International Boundary and Water Commission, or a successor agency of the International Boundary and Water Commission.

(4) COMMISSIONER.—The term "Commissioner" means the United States Commissioner of the International Boundary and Water Commission, or the head of a successor agency of the International Boundary and Water Commission.

(5) CONSTRUCTION.—The term "construction" has the meaning provided the term under section 212(1) of the Federal Water Pollution Control Act (33 U.S.C. 1292(1)).

(6) TREATMENT WORKS.—The term "treatment works" has the meaning provided the term under section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

(7) BORDER AREA.—The term "border area" has the meaning provided the term under Article 4 of the Agreement Between The United States Of America And The United Mexican States On Cooperation For The Protection And Improvement Of The Environment In The Border Area (signed August 14, 1983, commonly known as the "La Paz Agreement").

(b) CONSTRUCTION ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator is authorized to—

(A) transfer funds—

(i) to the Secretary of State, who shall transfer the funds to the Commissioner for use by the head of the United States Section of the Commission to carry out an eligible project described in paragraph (2); or

(ii) To the head of any other Federal agency to carry out an eligible project described in paragraph (2); and

(B) make a grant—

(i) to an appropriate entity designated by the President; or

(ii) to a border State;

to pay for the Federal share of the cost of carrying out an eligible project described in paragraph (2).

(2) ELIGIBLE PROJECT.—An eligible project described in this paragraph is a project for the construction of—

(A) a treatment works to protect the public health, environment, and water quality from pollution resulting from inadequacies or breakdowns in treatment works and water systems from Mexican wastewater affecting United States waters or water and sewage systems; and

(B) a treatment works to provide treatment of municipal sewage and industrial waste in the United States-Mexico border area for treatment of high priority international wastewater pollution problems;

constructed under appropriate standards under the laws of the United States and Mexico and under applicable treaties and international agreements.

(3) FEDERAL SHARE.—The Federal share of the cost of carrying out an eligible project that is the subject of a transfer or grant under paragraph (1) shall be 100 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AVAILABLE FUNDS.—The Administrator is authorized to use such funds as made available to the Environmental Protection Agency under the heading "WATER INFRASTRUCTURE/STATE REVOLVING FUNDS" under the heading "ENVIRONMENTAL PROTECTION AGENCY" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Public Law 103-124; 107 Stat. 1294), as is necessary to carry out this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section such sums as may be necessary for fiscal year 1995, and for each fiscal year thereafter.

Mr. DECONCINI. Mr. President, I thank and indeed compliment the Senator from Montana for his effort in bringing this bill to the floor, as well as his work on other environmental bills such as the Superfund and other issues before us in a very busy period for this Congress.

The Safe Drinking Water Act is a very, very important piece of legislation that is needed in this country for the good health and the quality of life of Americans. It is really something that we have to address and continue to address.

The Senator from Montana and the Senator from Rhode Island have been the leaders in this environmental effort for some time, and I think it is only appropriate that we are here to vote to pass this legislation.

Mr. President, the amendment that I have just sent to the desk would merely authorize the Administrator of the Environmental Protection Agency to transfer funds to the Secretary of State, appropriate Federal agency heads and other appropriate entities for waste water treatment projects to protect public health, the environment, and the water quality along the United States-Mexico border.

We on the southwest border are really plagued with problems created by our neighbors to the south because of the immense population growth in that whole country, but in particular, the growth along Mexico's northern borders. It has a lot to do with pre-NAFTA discussions, with the different economic programs and job stimulation in the Maquiladoras that have brought an immense migration to the northern states of Mexico because of their proximity to the United States. As a result, we have an environmental disaster on our hands. I will discuss just one that happens to be in my State in a few minutes.

Why wastewater treatment on the Safe Drinking Water Act? Well, it is a good question but there is a good answer. In some areas on our border, we have exposed raw sewage flowing through a community in what we call washes or dry river beds, in Arizona most of the year there is no water in these washes except this sewage coming from Mexico into Arizona. The same is true for parts of Texas, New Mexico, and California where the geography of streams flows north instead of to the south as is normal in other parts of the country. And that is precisely the situation we have in Nogales, AZ.

You have this sewage coming through a community, creating an immediate health problem of having to treat that sewage or leaving residents exposed to untreated waste containing toxic chemicals. It seeps into the ground and you have it contaminating the aquifer and the ground water.

Nogales, AZ, gets its drinking water from ground water. As a matter of fact, the community that I am from, Tucson, AZ, a community of almost 400,000 people, until recently got all of its water from ground water.

Thanks to the creation of the Central Arizona Project, Tucson now does not rely solely on ground water. The President pro tempore was on the Appropriations Committee when the then President pro tempore and chairman of the Appropriations Committee, Carl Hayden, was able to usher through the authorization of the CAP. That bill created a system of transportation of water from the Colorado River to the central part of Arizona. Morris Udall and others of us have since then been able to transfer a small portion, about 100,000 acre feet, to Tucson for drinking water purposes.

This is not for irrigation. This is so our community can continue to survive, because, with the overdraft of ground water—and even with the conservation efforts that have been put in, we are still overdrafting—this is going to save that particular community and be a part of its water supply.

Along our border—we do not have transported or imported water—we are faced with a catastrophe because we do not have safe drinking water.

This amendment is extremely critical to protect the public health—and that is what safe drinking water is all about—and the environment of my State of Arizona. And to all of the Southwest border States. It is critical, because it applies to all of them. It does not single out my State or the community I am going to talk about.

Many of my colleagues who do not hail from border States may be unable to comprehend the extent of the pollution threat to the health and the welfare of thousands of residents in this country. It is difficult even for me—and I have visited these communities countless times—to see the sickness that is there. These are American citizens who work in our country, who serve in the military, who are participants in our full society and vote here. They are sick and they are sick because of unsafe drinking water and other environmental problems that affect them. And most of it, almost all of it, comes from our neighbors to the south—Mexico—who do not have the capacity to do anything about it.

Now, I say that because they really do not have the capacity. But, in fairness to this administration in Mexico, there is an effort for the first time to actually appropriate some moneys for infrastructure along the border. President Salinas has succeeded in getting

the Congress in Mexico to appropriate $400 million for a 4- or 5-year period of time to expand infrastructure along the whole border, from Brownsville, TX, to San Diego, CA. That is over 2,000 miles, and that is not that much money when you think about the area to be covered and if you have been down there and seen the problem.

It is beyond dispute that the conditions in many border communities are deplorable and absolutely demand responsible action by this Government of the United States. Rectifying the dangerous pollution problems on our border should be, I think, one of our highest priorities. And I am sad to say, Mr. President, it is going to only get worse as NAFTA continues to expand and brings about trade that will grow at a very rapid rate.

Rectifying the dangerous pollution problems on our border, I think, has to be a high priority. We cannot just ignore it or dwell on water systems all within the inner part of this country. It is unconscionable that residents of this country reside in the breeding grounds for disease that are found on the Southwest border part of our Nation.

In my State, Nogales, AZ, is a community in desperate need of some Federal assistance to meet its water problem.

I implore my colleagues to listen and give some concern about the citizens of this country, not just of Arizona, New Mexico, Texas and California, but citizens of this country who need some special attention.

This is not a pork barrel project. This is not an itemized issue for Nogales, AZ. It only permits the transfer of funds to the State Department and other appropriate Federal agencies or border States so that they can be used for wastewater treatment to remedy this threat to the environment and public health.

Nogales is located immediately downhill and downstream from Nogales, Sonora, Mexico. Sonora is the northern state in Mexico that borders Arizona.

As you can see on this map, this is Nogales, Sonora, a city. This is the State of Sonora.

Nogales, Sonora, has a population—and it is difficult to determine—between 250,000 and 300,000 people. Nogales, AZ, has a population of somewhere between 30,000 and 35,000, depending on the tourist season. A lot of people live there a part of the year, but it is a very small community.

As you can see, the Santa Cruz River runs through the city. You see Morley Avenue that runs through the city and you see Nogales Wash. Nogales Wash is where the problem is. If the raw sewage was dumped into the river, it would also be a problem, because this wash and this river flow north from Mexico into the United States into the State of Arizona.

Until recently, raw sewage from the Mexican community flowed unmitigated into the Nogales Wash, and even the streets of the city of Nogales, AZ.

Since then, with the expansion of the Nogales International Wastewater Treatment Plant, there has been some effort to attempt to treat some of the sewage that comes through there.

In February 1994, an article appearing in the Arizona Republic described the Nogales Wash as "an open drainage ditch that carries industrial runoff and sewage right through downtown of both cities. Chlorine added round the clock since 1990 kills most of the fecal bacteria, but the water still contains a volatile mix of chemical solvents and petroleum products. In May 1991, theh was caught fire."

Why does this happen? Well, the tremendous growth on the Mexican side of the border, the increase of industrial capacity there, and the inability and inadequacy of any kind of a treatment plant causes this waste to be dumped into the wash on the Mexican side and, gravity being what it is, it flows into my beautiful State.

Chlorine is added to the water right here near the border as this flows there this very day, and it is done around the clock since 1990 in order to kill most of the fecal bacteria. But the water, after those bacteria are killed, still contains a very volatile mix of chemical solvents and petroleum products. In May of 1991, just a couple of years ago, it actually caught fire here after it had been treated by chlorine. As you know, chlorine is nonflammable, but it was the chemicals that were still in there that burned. These are horrible conditions for any State or city to have to tolerate.

The existing treatment facility was designed to satisfy the treatment needs of both Nogales, AZ, and Nogales, Sonora. That was constructed recently, and it was supposed to be for a 20-year period of time. Unfortunately the growth in Nogales, Sonora—the Mexican side—has been so great that it is going to reach its peak sometime this year, in 1994.

For a number of reasons, including the population explosion in Nogales, Sonora, the plant is just incapable of coping with all of this particular waste that is coming to it through Mexico. It is at 75 percent or more of its capacity today and will be, by next year, over capacity. It will be at 100 percent, and exceeding that.

Thus, one of Arizona's fastest growing border communities is going to be penalized because of the problems beyond its control, across the border—something that is an international problem that has to be dealt with. This is particularly disturbing with the ongoing implementation of NAFTA, because this is only going to get worse in the sense that we are going to have more economic thrust toward the border States, and we are going to have a bigger problem than we do today.

Right now there is a cancer cluster in Nogales, AZ. The specific cause is at this time is unknown, but there have been a lot of studies about it, and evidence points to chemical and heavy metal contaminants used in Mexican factories that flow down Nogales Wash from Mexico into Arizona. And the problem with safe drinking water, or unsafe drinking water in Arizona, is Mexico does not pretreat its industrial waste and the existing facility is unable to handle the amount of inflow that is coming in. Citizens of Nogales are facing a cancer epidemic.

A study by the University of Arizona Cancer Center, which is a renowned cancer center at the university's medical school, found that Nogales has 4.8 times the expected average of myeloma cases, that is cancer; 1.6 times the average of leukemia cancer; and 4.5 times the average of lupus cases. The highest rate of lupus in the world is in my State, in this small community of Nogales, in the United States—Nogales, AZ.

If you live there, because of the environment and the lack of good water supply, your chance is 4.5 times greater of getting cancer, myeloma, or lupus. Researchers do not yet know what causes the lupus, but one of the causes, it is believed, is the toxic chemicals in the water in that community.

As you can see from this very telling graph that I have here on my left, which ran in the Arizona Republic—State's largest newspaper—the residents of Nogales have dubbed one street in particular Cancer Street. That is what they call this street today. Carrillo Street, the name it was given when it was subdivided—now Cancer Street—borders the Nogales Wash where the water flows untreated, full of chemicals. It has at times actually, in times of heavy rain, overflowed into the subdivision when there has been some flooding.

I believe this chart tells the tragic story about conditions in the United States. This is not a Third World country I am talking about. This is America. In the 18 houses on Cancer Street—these are the people who live here, these are real people, these are American citizens who are dying—there are 14 cancer cases—8 are surviving and 6 are dead. This is one street, one small street in a quickly-growing border area.

I have an article from the Arizona Republic entitled "Warning Voices from Nogales," about Jim Teyechea. Jim Teyechea used to live on this street and he is a victim of a rare form of bone marrow cancer.

Over the last couple years Mr. Teyechea helped form a group in Nogales, AZ, called LIFE—that acronym is Life Is For Everyone—to protect, inform and educate the country

about toxic pollution problems near Cancer Street and the failure of that community to have good, safe drinking water.

Mr. Teyechea has brought attention to this problem. Hopefully his efforts will help produce a solution.

Mr. Teyechea will not benefit from any efforts that our Government might make if this amendment is accepted and put on this bill and implemented into law. Mr. Teyechea is not going to benefit from it—he recently died of his disease at the age of 44—but we have the opportunity now to reduce the chances for future "Cancer Streets" in Nogales and across the Southwest border.

I could continue citing case after case, not only of cancer but of abnormally high numbers of children in this area being born with birth defects and life-threatening problems. They are horrible cases and horrifying statistics.

Some may say yes, but there are other environmental problems—and there are. We have air problems in Nogales, AZ, and we have mines on the Mexican side that on occasion will blow harmful substances in this direction. Usually they blow northeast, but there is a mine east of the city that sometimes blows over the border. We have fugitive dust, we have burning garbage dumps, as is shown right here on the map. The Nogales, Sonora city dump was on fire just last week in Mexico releasing toxic smoke.

This Senator called the Ambassador from Mexico to the United States, Mr. Montaña. I thank him publicly for intervening to get that fire put out.

Last year we had a fire there that was emitting a very toxic smoke into the United States right on top of these people. Those problems aside, these people do not have a reliable, safe water system. Part of it is because the sewage seeps into the ground, into the water system, and thereby contaminates it.

I know the situation is no better in communities along the border all the way from California to Texas. There is no conclusive evidence yet, but all indications point to pollution of the border environment as the cause of these cancers, including contaminants in the water that people drink.

The administration has recognized the conditions and has taken some action to alleviate them. I thank the Administrator of the EPA, and actually this administration, for paying attention to Americans' problems, real human problems such as those in Nogales.

In fiscal year 1994 the VA/HUD appropriations subcommittee agreed to set aside $500 million for hardship communities, including those on the United States-Mexican border. Pending authorization of those projections, Nogales, AZ is listed as one of those projects for which the administration has requested funds.

So I thank Senator MIKULSKI and Senator GRAMM for their recognition of the need for action. In the 1994 appropriations bill that we are living with today, there is $500 million for hardship communities. If it was not for the leadership of the Senate appropriators, this money would not have been there, but it has not been spent. It is sitting there waiting to be spent. But the timeframe for availability of these funds is limited. Authorization is essential. That is what this amendment is all about. Nothing more. I hope that my colleagues will see fit to approve this amendment.

Let me just summarize the amendment, Mr. President. This authorizes appropriations that are already there in fiscal year 1994 and for the future. In 1994, we are talking about part of a $500 million appropriation to build wastewater treatment facilities on the United States-Mexican border to deal with the problem of international pollution. It does not include the colonias on the United States-Mexican border. I know the distinguished chairman is a strong supporter of that program and wants to keep that off this bill. But it would apply to other border communities whose environment and public health are endangered by pollution from Mexico.

It authorizes the Administrator of the EPA to transfer funds to the Secretary of State for the Commissioner of the International Boundary Water Commission, or any other Federal agency, or make a grant to an appropriate entity designated by the President or a border State, for that matter, to carry out these projects if they are eligible, such as the construction of treatment works to protect public health and environment and water quality from international pollution from Mexico.

It says the names of the border States. It says the term "border State" means the following States: Arizona, California, New Mexico, and Texas. It does not name Nogales, AZ, or Brownsville, TX, or Tijuana, Mexico, or San Diego. It just says these States.

There is no guarantee that Nogales will get funding, but here we have the money, I know the distinguished chairman would like to keep amendments off this bill that he feels can better go on other legislation. But we are under a time constraint. I have worked with the chairman for some time, and he has been very helpful and sympathetic in trying to get some assistance here.

But now I am confronted with the problem that I do not know where to go, but I come to my colleagues and ask them to put themselves in the shoes of the people who live on Cancer Street and to ask them if they would support an amendment that merely authorizes the EPA to transfer funds to the International Border Commission so that they can, if they elect to do so—and in this case, Nogales has been recommended by the administration in their budget—start the process of constructing adequate wastewater treatment facilities so that we could stop Cancer Street, so that the people of Arizona, particularly Nogales, would have an opportunity to live and drink as clean water as I do, living in the State of Maryland.

I thank the Chair, and I hope the committee will accept this amendment.

Mr. President, I ask unanimous consent that the article in the Arizona Republic, to which I referred, be printed in the RECORD.

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

[From the Arizona Republic, Feb. 27, 1994]

WARNING VOICES FROM NOGALES

(By Miriam Davidson)

NOGALES, AZ.—"This is not 'Cancer Street.'"

Jim Teyechea leaned on his cane and looked up and down the quiet Nogales side street where he lives.

"This is Carrillo Street," he insisted. "This is where I grew up."

Teyechea doesn't like the infamous nickname, but he admits there's a lot of cancer on Carrillo Street, where he has counted at least one case of cancer in each of half the houses.

Teyechea himself suffers from a rare form of bone-marrow cancer that usually strikes the elderly. He's 44.

In the four years since he was diagnosed, Teyechea has lost his six-figure job as a produce broker, gotten divorced and moved back home with his parents on Carrillo Street.

He has undergone painful chemo-therapy, radiation treatments and a bone-marrow transplant and now walks only with difficulty.

But he has survived far longer than doctors predicted he would. He said this is because he has found his purpose.

Teyechea believes contaminated air and water from across the border have poisoned him, his neighbors and dozens of others in Nogales. He has dedicated the rest of his life to telling the world what's happening in this city of 20,000, and to trying to stop the pollution coming from its sister city of 200,000 in Mexico.

Teyechea and the 40 or so other members of a group he has formed called LIFE—Living is For Everyone—have spent 1½ years collecting information, educating and protesting.

It has worked. In December, after the University of Arizona in Tucson found higher-than-expected rates of cancer and other diseases in Nogales, Gov. Fife Symington and Republican Sen. John McCain visited Teyechea.

The politicians came to Carrillo Street with a promise of at least $100,000 to study the situation. The Environmental Protection Agency also pledged more than $400,000 for studies of air and water.

Disease and pollution rates in this city are alarming. The UA's preliminary studies found leukemia occurring at almost twice the expected rate, and lupus and multiple myeloma, the cancer Teyechea has, occurring at nearly five times the expected rates.

If the incidence of lupus—an immune-system disorder that strikes mostly women—is

confirmed, UA scientists say it will be the highest rate ever found.

EVERYBODY WANTS ANSWERS

Tim Flood of the State Department of Health Services said the higher-than-expected disease rates found by the UA in Nogales have yet to be confirmed. He said his figures show the death rate from cancer there is 23 percent, the same as for the rest of Arizona.

"Everybody wants answers, but we need to know what it is we're dealing with here," Flood said.

LIFE members aren't satisfied with the state's response.

"They're just throwing money at us to make us shut up," said Susan Ramirez, whose 8-year-old daughter has leukemia.

"We've been studied to death. We want action."

LIFE members suspect the UA studies will not pinpoint an environmental cause for residents' illnesses and will only serve to justify further inaction by government and industry.

UA scientists conducting the cancer study concede it probably won't find a definite link between diseases and pollution in Nogales.

But UA researcher Joel Meister emphasized, "Environmental cleanup should not depend on certain scientific outcomes. It should have started a long time ago."

LIFE's crusade has put it at odds with many Nogales businesspeople, who say they fear the group is giving the city a bad name. Two industrial recruiters recently were quoted in a local newspaper as warning that "continued talk of Nogales as a 'cancer center' makes the rest of the nation think residents here are mutations."

"They're saying it's OK for me to die, but it's not OK to hurt business in Nogales," Teycchea said.

There is no question that pollution is causing major problems in the border city. Nogales' air is among the worst in the state, consistently worse than in Phoenix.

Winds carry dust from unpaved roads, fumes from unregulated vehicles and smoke from squatters' campfires in Mexico.

CHEMICAL COCKTAIL

Adding to the haze are sporadic fires in the Nogales, Sonora, dump, which sits near the border. Every few weeks, the dump catches fire and fills the air of Nogales, Ariz, with the stench of burning plastic, rubber and garbage.

The Santa Cruz County health director said the smoke makes people's eyes and throats sting and has forced elementary schools to cancel outdoor activities.

At the same time, an open drainage ditch called the Nogales Wash carries industrial runoff and sewage right through the downtown of both cities. Chlorine added round the clock since 1990 kills most of the fecal bacteria, but the water still contains a volatile mix of chemical solvents and petroleum products. In May 1991, the wash caught fire.

About 1½ weeks ago, the presence of potentially explosive petroleum products in the Nogales, Ariz., sewer system forced thousands of people to evacuate a large area on both sides of the border.

Susan Ramirez lived near the Nogales Wash and drank water from a private well while pregnant. Ramirez's daughter, Michelle, was diagnosed with leukemia 1½ years after she was born.

Michelle's illness is in remission, and Ramirez no longer lives near the wash.

Santa Cruz County Health Director Pat Zurick said that as recently as 1990, 89 private wells along the wash were open. Zurick believes that they mostly are used for household chores and irrigation but that a few still may be used for drinking water.

Like many along the border, Teyechea blames U.S. factories in Mexico for most of the pollution. He said that he knows people who have worked in maquiladoras, as these factories are called, and that the workers told him of industrial solvents and other toxic wastes' being taken to the dump, poured on the ground, burned or otherwise mishandled.

20 YEARS OF POLLUTION

Antonio Carbajal, president of the Sonora Maquiladora Association, said that environmental inspections by Mexican authorities have increased in recent years and that no serious violations have been found.

That may be, Teyechea said, but some maquiladoras have been operating for more than 20 years.

"I shudder to think what's over there," he said.

Carbajal, whose association represents more than 40 of the largest maquiladoras in Nogales and has no authority to enforce environmental standards, also pointed out that Carrillo Street was built over a former Army base, which may have dumped chemicals or other toxins.

The UA's Meister said that's "a possibility worth investigating," but he and other researchers doubt the Army base was responsible for the pollution problem.

"There are lots of former Army barracks in this country, and we're looking for something unique about Nogales," UA researcher Larry Clark said.

Moreover, Teyechea's group has identified cancer and lupus cases all over town, not just on Carrillo Street.

Meanwhile, Nogales Sonora, officials say they're doing what they can to stop pollution. Mayor Hector Mayer Soto said that a new, $6 million dump is being built south of town and that road-paving and tree-planting programs are under way. A Nogales feedlot has quit burning pesticide-soaked manure and is building a proper disposal pond, officials said.

But Teyechea said poverty and corruption in Mexico prevent meaningful enforcement of environmental laws.

"When I worked there as a produce broker, I never had a problem I couldn't solve with a $100 bill," he said.

As long as that continues, we're never going to solve problems of cross-border pollution."

For now, some lifelong Nogales, Ariz., residents have moved to the edge of town or to Rio Rico. Others, though frightened, as staying put.

"I figure everywhere you go, it's something," said Margaret Partida, whose 73-year-old husband has throat cancer.

The Partidas' healthy, 5-year-old granddaughter lives with them, just a few doors down from Teyechea on Carrillo Street. They have switched to bottled water but don't know what else to do.

Despite his anger, Jim Teyechea is at peace. He has had time to fight for what he thinks is right, and he's proud of the legacy he'll be leaving.

"The battle is not between living and dying," he said. "The battle is to five meaning to life.

"I'm speaking for a 12-year-old kid I just visited who's got leukemia. I'm speaking for friends of mine who've died. What I want to know is, after I'm gone, who will speak for me?"

Mr. BAUCUS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I worked often, and long hours and days, with the Senator from Arizona over this project and many others. The people of Arizona should be proud of the hard work of the Senator from Arizona. He has worked diligently and spent many opportunities to speak with me and others in the committee about this project, and others very important to Arizona.

It is also clear, Mr. President, that border problems are very serious. The pollution along the border is unbelievable. I myself visited not Nogales, but in the summer 2 years ago, the colonias along El Paso and over in Tijuana, and Juarez, across the border from El Paso. When you see these colonias, you are just astounded how people live there. Colonias essentially are small communities where there are squatters; namely, people looking for jobs come to the border areas and they build up small communities. They just build tar-paper shacks, tens of thousands, all in these little sections. No running water, no drinking water, no sewage.

The colonias I happened to visit did have electric power. That was it. It was dusty, hot; just squalid conditions. People were out there carrying water on their backs for communities to drink and to wash clothes, whatnot. The conditions are deplorable.

In addition to that, Mr. President, because there is no sewer, the raw sewage flows down into the river, into the Rio Grande. Alongside the Rio Grande is another river called Agua Negres, black ditch, because it is all sewage. That is all it is.

There are tremendous problems along the border. I assume the problems in Nogales are equally severe to those I saw in the El Paso area and the Juarez area.

I must say, Mr. President, that even though we are all sympathetic to the problem, there are solutions. For example, the bill provides for about $600 million in State revolving loan funds under the Safe Drinking Water Program. And for 1994 and 1995, the authorization will be approximately $1.3 billion. Arizona's portion will be at least $17 million. So the State of Arizona will be allocated $17 million under the drinking water State revolving loan fund to address whatever needs Arizona thinks most appropriate.

I might add, in the next several weeks, the majority leader intends to bring up the Clean Water Act. Under the Clean Water Act, Arizona will receive at least as much in further State revolving loan funds and another $17 million at least for wastewater treatment plants, sewage plants, and so forth. So that totals about $34 million in combined safe drinking water and sewage wastewater treatment expendi-

tures for decisions made by the State of Arizona. So there are dollars available to address whatever needs the State of Arizona thinks is most appropriate.

The amendment before us deals with another matter. The amendment before us deals with a pot of money—$500 million—which has emerged over the last several years under the heading of "needy communities"; that is, because the Congress was not considering the Clean Water Act last year, where this amendment more appropriately lies, because we were not dealing with and did not have before us the Clean Water Act and because there were needs in many communities, there was thought that $500 million, roughly, should be authorized for needy cities to meet urgent needs in our communities around the country.

Even though there are dire needs along the border, other States also have their needs; other cities, other communities have their needs. They think they are needy, too.

It was the thought of the committee that it probably made more sense to take these requests of needs under this $500 million general authorization and work with Senators in various States to try to find the best way to divide the money, to split the money, to split up the pot, because various communities around the country have legitimate complaints.

There are a lot of needs, I might say, in trailer parks, for example, which do not have sewage systems. I can think of lots of needs around the country.

I must say to the Senator from Arizona that many Senators have come to the committee saying they have needs in their communities. The committee has said to those Senators, although those requests are very legitimate, it makes much more sense to deal with all these requests on a more orderly basis; that is, when we take up the Clean Water Act in the next several weeks.

So I strongly urge the Senator to not press his amendment on this bill but, rather, to press it when we work with other requests and other States and other cities to find the best way to allocate that as much as possible. At that time, it is the committee's intention, when the Clean Water Act comes up, to offer a managers' amendment which is the most equitable allocation with which we can come up in distributing that $500 million.

I must also say, Mr. President, that the North American Free-Trade Agreement took a major step to address pollution problems along the border in setting up the environmental commission, the border environmental commission, as well as the North American Development Bank.

Now, the funding for the North American Development Bank will be worked out, it is my understanding, with the Treasury Department, but the funding for the border environmental commission I hope is from a mixed source; it is not just general dollars that are to be appropriated to the Environmental Protection Agency, under the rubric and control of the Environmental Protection Agency but also other sources.

If we start down the road today on this bill allocating portions of the $500 million to one community as opposed to another, we run many risks. First, we run the risk of jeopardizing additional sources to address other needs communities have, particularly along the border, when we get to the Clean Water Act. We also jeopardize the needs in other communities, communities other than along the border, because this amendment essentially authorizes $500 million, all of the $500 million, for four States. Its implication is that the dollars are to be redistributed to address pollution problems along the border, that is, along the Rio Grande.

So for all those reasons, Mr. President, I say to my very good friend, the Senator from Arizona, that although there is a need—there is no doubt about it—the more appropriate time and place to deal with this issue, that is, how to allocate this $500 million, is when we take up the Clean Water Act in several weeks.

Many other Senators have approached the committee. They want part of this $500 million. And the committee has said to those Senators, do not press your amendment now on this bill because this is not the appropriate time and place but, rather, press your case when we take up the Clean Water Act. They have all agreed to wait to take up their requests then, not now. And so when we add it altogether, I think the more fair and the more equitable, the more just approach to this problem is to take up these similar requests at the time we take up clean water, not to individually press it on a bill which really is a safe drinking water bill; it is not a clean water bill, which is the bill that addresses pollution.

Mr. CHAFEE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, I wish to join with the floor manager of the bill, the chairman of our committee, in his views on this amendment.

The committee, as perhaps has been pointed out, the Environment Committee, has reported out a bill to reauthorize the Clean Water Act. So that is done. That is out of the committee. We expect it to be up before the Senate in several weeks. It seems to me the Clean Water Act, since it is the program that deals with sewage treatment, is where the Senator's amendment should be rather than the Safe Drinking Water Act which is before us now.

You also have the added problem the Senator from Montana just pointed out. There are a whole group of Senators who want to tap into the $500 million that has been appropriated, and if we were to take up the Senator's amendment today, which provides for 100 percent financing for this facility, obviously it would bring all the others over here—and some who had not heard about it—who would feel distressed because they have agreed to hold back waiting for the Clean Water Act to come through here. I really think that is the proper place to have this amendment. And also obviously what is going to happen is we are going to have to get together, those who have requests or demands upon that half a billion dollars, whether it is Tijuana or the California city opposite Tijuana, wherever it be, Boston Harbor. All of this started as a coastal bill.

So I think what we have to do is get those folks together and somehow divide it up in a fair way based upon the priority or the emergency presented.

I listened to the Senator's presentation of what is taking place in Nogales, and I think he has a very strong case. But in all fairness I think the others should have an opportunity to present their case likewise.

Mr. DECONCINI. Will the Senator yield?

Mr. CHAFEE. I would reluctantly ask that the Senator not press his amendment.

Yes. Sure.

Mr. DECONCINI. I thank the Senator from Rhode Island. I appreciate the history of the Clean Water Act. The reality, if you look at this amendment, Mr. President, I say to Senator CHAFEE, you will see that this amendment only authorizes the EPA to make a transfer. It does not say they transfer $500 million. It does not say they transfer $50 million. It just says they may transfer, they are authorized to transfer some money.

So that is a decision which the EPA is going to make. What are they going to make it on? They are going to make it, hopefully, for this Senator and these people who live on Cancer Street, on this being a hardship, a public health hazard. If they do not, there is nothing I can do about it. I am not here suggesting that we write into the law that we make an authorization to Nogales, AZ, or to the International Boundary and Water Commission for Nogales, AZ.

The argument, Mr. President, is that other Senators have concerns here. Sure, they do. But that is what this body is all about. My people in Arizona and maybe other places, maybe in the Boston area, have bad drinking water, and are exposed to contaminated water and it is likely that this contamination has caused the cancer rate to be so high in Nogales, Az.

So I am confronted with, well, put it off until the Clean Water Act comes.

Yes, that has passed the committee, and I compliment the ranking member, Mr. CHAFEE, and Mr. BAUCUS, from Montana; they have that bill out here. But it is not in the Chamber. We know how this place works. It took weeks and weeks to get this bill in the Chamber. So my plea to them is take this amendment, and if the Clean Water Act comes up and we do pass it, then you can drop this amendment because it could be on that bill. But we are not deciding here how to divvy up $500 million. That money has been appropriated; it is sitting there; it is not being used. And here the EPA could use it if they were able.

So, Mr. President, I would like to proceed with this amendment. I implore my colleagues. Mr. President, I would ask for the yeas and nays on the amendment.

The PRESIDENT pro tempore. Is the demand sustained?

The demand is not sustained.

Mr. DECONCINI. Mr. President, then I will wait until I can get enough Members to get a rollcall vote on it because I am confronted, as I said, with no alternative. I do not know where to go in order to get some relief. And as I have indicated, I appreciate the concern that the Senator from Rhode Island has pointed out that we have another bill coming along on which we can work. But I ask them what would they do if in their State they had 4½ or 5 times the cancer rate attributed to poor drinking water. Would they not ask, is it not reasonable to ask that the EPA may use funds that are already appropriated and set aside, that they may use them? Not that they must but that they may use them for this hardship community? I cannot go home to Arizona and have a water quality bill go through here and not make an attempt to get some relief.

If I were asking here for specific dollars for Nogales, AZ, then I could agree—and I would have to probably reluctantly because I would be pushing for the appropriations for the money—but I could agree with the Senators from Rhode Island or Montana who say we cannot divvy up because everybody has some priority. But that is why we created the EPA—to assess and determine. Maybe this priority will fall when it is compared against where there are other problems with ground water. But so far, it is in the budget. And here is an opportunity to take action.

I just do not understand why we have to let this tragedy continue out of the sake that we do not want anybody else to offer amendments. To me that is just not a logical way to approach legislation. If you think I have a good case, if you think the people are dying in Arizona because of bad drinking water, and there is a fund of money there, then how can you oppose giving authorization for the EPA to consider—not mandating that they spend the money in Nogales, but that they "may"—that they are authorized to use that money that is already there for hardship communities?

So that is all I am asking for. I do not think that is unreasonable.

Mr. President, I ask unanimous consent that the Senator from Texas [Mrs. HUTCHISON], and the Senator from Arizona [Mr. MCCAIN], be added as cosponsors.

The PRESIDENT pro tempore. Does the Senator from Rhode Island yield for that purpose?

Mr. CHAFEE. Yes. I do.

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

Mr. CHAFEE addressed the Chair.

The PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. CHAFEE. Here is the problem. There is no question but what the case the Senator from Arizona presented in connection with Nogales is an appealing one and of deep concern. But we do not know what the cases are from the other States. We have here an amendment for water infrastructure from Senator GRASSLEY, from Senator COVERDELL, from Senator HATFIELD, from Senator DOMENICI, from Senators STEVENS and MURKOWSKI, from Senator PRESSLER, from Senators BENNETT and HATCH, and others; and another, Senator CHAFEE, actually.

So it seems to me what we have to do is put these in some kind of priority. I mean the case that the Senator from Arizona made is an appealing one. But is that of greater importance for this limited amount of money that the Appropriations Committee has appropriated last year, dependent upon the authorization, than these others? I think in fairness to these others who have held back, we have to in some fashion weigh them. It may well be that the Senator from Arizona will have the lead role. But we do not know.

So, as I understand what the Senator from Arizona is suggesting, that while we have not actually appropriated nor actually required that the appropriations take place, we have passed it over to the EPA. But my experience around here is that most of the Senators do not want to have these decisions to remain in the EPA. What is the EPA going to have before it? If this is all we pass today in connection with this bill and the others hold off, then that is all EPA has before it.

I think it is better, in fairness to the others who may have powerful cases and may not, to at least have a chance to hear them out and do it in an orderly fashion as we try to do when we come up with the Clean Water Act.

So for those reasons I join with the manager of the bill, and oppose the amendment by the Senator from Arizona.

Mr. GRAHAM addressed the Chair.

The PRESIDENT pro tempore. The Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, I join with the chairman and the ranking member of the committee in opposing this amendment, as well-intended as it is.

I will make three comments about the amendment itself. First, the amendment is not specifically targeted to the circumstance in Nogales, AZ, but rather relates to expenditures along the United States-Mexican border, wherever they may occur. It transfers funds from the EPA to the State Department, and the State Department in turn to the Commission, the International Boundary and Water Commission, which is a successor agency to the International Boundary and Water Commission, in order to implement whatever eligible projects that Commission feels is appropriate.

Second, this calls for full funding of these projects; that is, it is 100 percent to be paid from this source of funds. Most of our projects require some level of contribution by the communities or by the State in which the project is located.

Third, the funding is to be for treatment works under the definition of the Federal Water Pollution Control Act, and as the Chair of the committee indicated earlier, that is the legislation that is encompassed in the Clean Water Act, not the legislation that is before us today which is the Safe Drinking Water Act.

Beyond those specific comments, I would point out that the Environmental Protection Agency has $600 million of funds which have already been appropriated by the committee of our Presiding Officer to assist States in providing safe drinking water. Essentially what the Senator from Arizona has indicated is a very serious problem of unsafe drinking water.

Arizona would receive an estimated, approximately, $8 million of that $600 million nationally to spend in correcting drinking water problems within that State. So there already are appropriated funds, available with the not insignificant amount to go to the State of Arizona to meet its specific needs.

Mr. President, both in the Clean Water Act and in the Safe Drinking Water Act, there has been an effort on the part of the committee to establish an orderly process of arriving at priorities. It is a very difficult situation. We have an estimated $130 to $140 billion of needs in the area of responsibility of the Clean Water Act itself with approximately $2 to $2.5 billion of Federal funds being authorized in this legislation to meet that very significant need.

If the Clean Water Act passes, that authorization will grow over the next few years up to a total of $5 billion; a significant fund but still a minor percentage of the estimated national need.

I believe, given the fact that we have such a small Federal fund to meet such a massive national responsibility, that

it is particularly important that we look at our needs on a prioritized basis. We have taken some steps to do that, moving toward an allocation formula, the principal focus of which is on documented, unmet needs to meet both Safe Drinking Water Act and Clean Water Act responsibility, and allocating funds against those needs.

I was pleased that yesterday the managers of the bill accepted an amendment which I had offered which will place that needs assessment on a 2-year cycle; that is, every 2 years a State's need for safe drinking water and for waste water treatment will be analyzed, and that analysis of unmet needs will become the principal factor in the allocation of funds among the 50 States and territories which benefit by that program. So I think we are on a course that the Senate can support as rational and orderly, attempting to arrive at priorities.

I have keen admiration for the Senator from Arizona. There are few people who serve in this body with more respect and with more vigor the advocacy of their needs for their citizens. I would say in this case I would ask for his understanding of the need to place this serious issue in the context of a whole nationwide set of similar needs, and that it is the commitment of the committee, with the support of the Presiding Officer and the members of the Appropriations Committee, to be able to provide a sufficient amount of Federal assistance as we can within our total needs as a nation to meet these important drinking water health environmental concerns.

Thank you, Mr. President.

Mr. DECONCINI addressed the Chair.

The PRESIDENT pro tempore. The Senator from Arizona [Mr. DECONCINI] is recognized.

Mr. DECONCINI. Mr. President, it is my intention to go ahead and have a rollcall. I think the debate has been healthy. I am sorry I have not been able to convince the Senator from Florida how good this is for border States, who are inundated with immigrants, with so many people flooding into the State. I think he understands that.

In this case, I have raw sewage flowing into my State, and it is causing death. It is my intention to ask for a rollcall vote, but I do not have the people here. The Senator from Rhode Island said he would support a rollcall vote. In that case, I will have to wait until we get some more people here.

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

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—AMENDMENT NO. 1711

Mr. GRAHAM. Mr. President, I ask unanimous consent that a vote on or in relation to the DeConcini amendment, No. 1711, occur at 2:30 p.m. today, with no second-degree amendments in order thereto.

The PRESIDENT pro tempore. Is there objection?

Hearing no objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Senate stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 11:50 a.m., recessed until 2:30 p.m.; whereupon, the Senate, at 2:30 p.m., reconvened when called to order by the Presiding Officer (Mrs. MURRAY).

SAFE DRINKING WATER ACT AMENDMENTS OF 1994

The Senate continued with the consideration of the bill.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, what is the pending order of business?

AMENDMENT NO. 1711

The PRESIDING OFFICER. The question now occurs on amendment No. 1711, offered by the Senator from Arizona.

Mr. MCCAIN. Madam President, I rise in support of the amendment offered by Senator DECONCINI to help protect public health and the environment along our Nation's border with Mexico. Specifically, the amendment would authorize the Environmental Protection Agency to make grants for high priority wastewater treatment facilities along the border which addresses international pollution problems.

My colleagues are well aware of the problems facing border communities in the Southwest. In Arizona, we have had several problems with transboundary water pollution which has resulted in the contamination of drinking water wells and surface water. Public health emergencies have been declared in Nogales because of raw sewage flowing into the streams from Mexico. Mr. President, during these episodes children have been found playing in stream beds contaminated by this waste. This must stop. Period.

As Senator DECONCINI pointed out, studies are underway to determine the cause of a cancer cluster afflicting Nogales. Preliminary studies have shown that between 1986 and 1992, 290 of the 600 people that died in that area had some form of cancer. This is more than double the national cancer rate.

Recently, a petroleum spill in the sewer system forced the city to declare a state of emergency and evacuate residents because of concern that fumes from the spill may explode. Many of my colleagues may remember the incident in Guadalajara, Mexico where such a spill resulted in a horrific explosion.

I have said time and time again the United States and Mexico have a responsibility to protect public health and the environment of the border region. We have an obligation to provide the proper infrastructure to meet that goal.

Last year, the President requested and Congress provided $500 million to support the construction of much needed water infrastructure for hardship communities including areas along the United States-Mexico border. While I was pleased that Congress recognized its responsibility to help these communities, my optimism was tempered by the fact that no authorization was given to the Environmental Protection Agency to actually spend this money.

The conferees intended that expenditure of this money would be authorized at some later point. Well, that was October of last year and since then no action has been taken. As a result, we are faced with a persistent and growing threat to public health and the environment from untreated sewage in areas along the border. Senator DECONCINI's amendment is needed because it is clear that this problem demands our immediate attention.

The amendment is quite simple. It would authorize the Environmental Protection Agency to transfer funds to the International Boundary and Water Commission [IBWC] and other appropriate entities to resolve international wastewater problems. EPA would only use these funds either directly or thorough the IBWC to resolve high priority international problems for hardship communities. The IBWC is currently authorized by law to deal with this very problem. The President's fiscal year 1994 budget request identified several of these water projects which rate a high priority.

One of these communities is in Nogales, AZ. Nogales is located on the border directly across from her sister city Nogales, Sonora, Mexico. The International Boundary and Water Commission owns and operates a wastewater treatment facility on the border which treats surface water flowing from Mexico into the United States.

As a result of growth primarily on the Mexican side of the border, the plant is operating at nearly 80 percent of its capacity. Under Arizona law, waste treatment facilities are required to begin planning for expansion once they reach 70 percent of their capacity.

Adding to the problems of the treatment plant in Nogales is a new pro-

gram in Mexico to expand sewer collection systems. Mexican officials are rightfully moving to ensure the proper disposal of this waste. Unfortunately, the consequence of this is added pressure on the existing wastewater treatment facility. Upgrading the facility is crucial.

According to officials at the International Boundary Water Commission, waste from Mexico and the city of Nogales will exceed the plant's capacity within 3 to 5 years. If the money to upgrade the facility was available today and everything went according to schedule, it would take 4 years to complete the upgrade. Clearly, there is a compelling need to authorize the use of these funds immediately to meet our obligations to citizens in Nogales and throughout the border region.

Madam President, I realize that some of my colleagues may argue that it would be more appropriate to address this issue when the Senate takes up the Clean Water Act reauthorization.

Unfortunately, the time for waiting has expired, the citizens of Nogales and other border communities have been waiting and waiting and waiting. They don't know nor do they care much about the niceties and formalities of Congressional procedure. They do know and care about their children who become sick when wells are contaminated with sewage. They do know and care about growth and prosperity of their city which will be summarily halted if the plant is not upgraded. They do know and care about their rivers and streams which become inundated with sewage when the current sewage system fails. They need and deserve our help.

No member in this chamber can tell the people of Nogales with absolute certainty that the Clean Water Act will be brought to the Senate floor and will pass this year. Despite the best efforts of the chairman and ranking member, we have no guarantee that the Clean Water Act will pass this year. We simply cannot tell these people to continue to wait and to hope for the best.

My colleagues may recall that it was 3 years ago when the Arizona delegation first began to seek funding to upgrade this wastewater treatment facility.

Each year, the citizens of Nogales have been denied. Two years ago a conference committee stripped provisions that would have allowed the plant upgrade—a victim of one member who opposed the North American Free-Trade Agreement.

During debate on NAFTA there was much discussion about the obligation of both Mexico and the United States to protect public health and the environment along the border. Many people including members of this body were quite strident in their criticism of Mexico's performance in that regard. Mexico is making progress. The failure to do our part in the cause would be grossly negligent and hypocritical.

In good conscience, we cannot tell the people of Nogales and the other border communities that face similar international problems to wait any more. I ask unanimous consent to have printed in the RECORD several media accounts of the sewage treatment problems and needs that this amendment would address. I urge my colleagues to adopt this amendment.

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

[From the Nogales International, Mar. 4, 1994]

PLANT EXPANSION STILL NEEDED

(By Jennifer Markley)

Plans to develop the recently-expanded Nogales International Wastewater Treatment Plant, now operating at 75-percent capacity, remain under consideration, said officials this week.

"The need is still the same," said Lino Vega, supervisor of the plant.

Rene Valenzuela, public affairs officer for International Boundary and Water Commission (IBWC), said that development plans for the treatment facility await the outcome of preliminary plans under way for collecting renegade flows from Mexico to the treatment plant.

The contract for the preliminary plans has not been assigned to an architectural engineering firm yet, but may be ready next week, said Valenzuela.

At issue, said Vega, is an old line that is "coming to capacity," in transporting wastewater flow from Mexico to the Nogales plant.

Valenzuela said that once results of the study are available, such as the location and size of a new line, the IBWC can coordinate with the Environmental Protection Agency (EPA) for the design and cost of the project before going to Congress for funding.

Money is available for the study of a new line, but "we're subject to Congress" for funding, said Valenzuela.

Paul Valdez, an environmental engineer with the EPA's U.S.-Mexican border team, said there is no specific amount of money set aside for the Nogales plant.

The EPA, however, recently drafted legislation authorizing use of funds in border areas, Valdez said.

But, the funds must be applied for, he added.

The IBWC can apply for funding from "a big pot of $500 million set aside for hardship communities" across the country by the EPA, and from the Border Environmental Cooperation Committee, he said.

Valenzuela said he is not aware of any applications submitted by the IBWC.

Currently, the Nogales plant treats about 13 million gallons per day (mgd), but can expand to 17.2 mgd, said Vega.

"Nonetheless, once you get to 75 percent, you're supposed to notify EPA because shortly thereafter you're going to come to capacity," he said.

Federal law requires treatment-facility officials to notify the EPA with expansion plans when a sewage plant operates at 75-percent capacity, which the Nogales plant did in 1992, said Vega.

There are predictions, he said, that within the next year the plant could reach its capacity of 17.2 mgd, if not because of an increased amount of sewage, then because of rainwater.

"Every time it rains we go up to 15, almost 17, (and) up to 24 (mgd) the other day," he said.

No matter what the amount of wastewater to rainwater, however, the EPA takes one reading from the meter, said Vega.

He said eight additional aerators are needed to mix water and suspend solids at 17.2 mgd.

Though a meeting has not been set to discuss plans for the wastewater facility, four options are under consideration, said Vega.

A plant could be built in Mexico for the southern flow of wastewater, Nogales could pay Mexico to take over and run its plant, the IBWC could buy and run the Nogales plant, or Mexico could buy the Nogales plant and money from that purchase could go towards building a separate plant for the city, said Vega.

He said he thinks the option of a buy-out for the construction of a new plant for the city will be decided upon.

"We need to for sure get ready for that point" when capacity is reached, said Vega.

[From the Nogales International, April 29, 1994]

UNITED STATES SHOULD BUY WASTEWATER PLANT; CITY CAN BUILD ANOTHER

(By Kathy Vandervoet)

There is a possible answer to the dilemma of wastewater treatment.

"We have proposed what we call the 'All America solution'" said Lino Vega, superintendent of the Nogales International Wastewater Treatment Plant.

Nogales would sell its 45 percent share in the existing wastewater treatment plant to the International Boundary and Water Commission.

That agency is already the copermit holder with the city to operate the facility.

In return, the IBWC would build a separate wastewater treatment plant exclusively for Nogales, Arizona.

Funding would have to be approved by Congress.

The new international trunkline would feed sewage from Mexico into the existing wastewater treatment plant, and the existing trunkline would feed the city's new treatment plant, Vega said.

Most Nogales residents are hooked up to the sewer line, but some residential areas are not, such as Beatus Estates, northwest of downtown.

Residents there should be connected to the sewer, health officials have said, because individual septic systems are failing at many homes.

Meadow Hills would also benefit from being hooked to the sewer main.

As well, a vacant area north of Meadow Hills, where two public schools are to be built, is also expected to be developed with homes, and hundreds of acres should be connected to sewer lines.

[From the Nogales International, April 29, 1994]

OPINION—INTOLERABLE SEWAGE PROBLEMS

Most people would prefer to forget about sewage treatment and disposal, but the economic growth of Nogales and better lives for all residents hinges on immediate action.

Nogales must have a second wastewater treatment plant, or see that the current facility is greatly expanded, says Lino Vega, superintendent of the facility.

Sewage from Mexico flows downhill from Nogales, Sonora. For our own health and safety from communicable diseases, the wastes are treated in Nogales, Ariz. But the local plant is at more than 75 percent of capacity. It took 12 years for the last expansion and Nogales doesn't have a safety net of another 12 years.

Meanwhile, Vega says, "the capacity we own and we are paying for is being usurped by the rapid increase in sewage flow from Mexico."

Funding for this international problem must be approved by Congress and the U.S. Environmental Protection Agency has to lobby senators and representatives so that Nogales is not ignored.

The promised economic growth that NAFTA will bring won't make a wrinkle in Nogales if all construction is halted due to inadequate sewage facilities.

Vega has told the EPA that "this is an intolerable situation." Now let's see if Administrator Carol Browner responds.

[From the Nogales International]

SEWAGE PLANT MUST EXPAND SO ECONOMIC GROWTH CAN CONTINUE

(By Kathy Vandervoet)

If Nogales doesn't get help soon from the U.S. Environmental Protection Agency (EPA) for the city's wastewater treatment plant new construction could come to a screeching halt.

Severe pollution of the Santa Cruz River is also a possibility. Lino Vega, superintendent of the Nogales International Wastewater Treatment Plant, prepared a detailed explanation for the EPA's deputy director, Robert Sussman, when he visited here last week.

"The capacity we own and are paying for is being usurped by the rapid increase in sewage flow from Mexico," Vega said.

The treatment plant is receiving more than 75 percent of its total capacity, and planning for expansion or a second sewage collection location is overdue.

The existing main sewer line from Nogales, Sonora, which runs underground in Nogales, Arizona is currently at capacity, Vega said.

Vega explained that there are two reasons for the sewage treatment emergency:

Rapid population growth in Nogales, Sonora, estimated at four percent a year.

Improvements to the water and sewer systems in Nogales, Sonora.

Vega said that Mexico is pursing very aggressively construction of new sewer lines and the increase of water supplies for Nogales, Sonora.

"It is our understanding that when a wastewater treatment plant reaches 100 percent of capacity, EPA will probably not allow new sewage connections in our city.

"That would be an enormous economic hardship on our city—even though our people are paying for excess capacity in this treatment plant for our own growth," Vega said.

Current water use in Nogales, Sonora, is around 50 gallons per person per day, as compared to 250 gallons per person per day in Nogales, Arizona, Vega said.

"As the population of Nogales, Sonora, increases, their water supplies improve and sewer collection systems coverage improves, we are going to get more wastewater to treat.

"We experienced a substantial increase in sewage flows when the first Los Alisos (Mexico) project went on line," Vega said.

Even so, there is an estimated one to two million gallons per day of raw sewage flowing down the Nogales Wash. If that sewage is put into the wastewater treatment plant, as is currently proposed, the city quickly gets closer to the plant's capacity, he said.

"It took 12 years for the expansion of the treatment plant" that was completed 18 months ago. We cannot wait 12 years to deal with the problems we face," Vega said.

The EPA's Sussman said during a public forum on April 21 that his agency is pressing for funds.

The EPA has requested $5 million from Congress this year and $13 million in 1995 to ease Nogales sewage problems.

Vega said, "Our problem is very simple and very important—if sewage flows from Mexico exceed the capacity of the existing wastewater treatment plant, we are going to have an increase in raw sewage flowing down the Nogales Wash and into the Santa Cruz River, polluting the groundwater supplies for the entire Santa Cruz River Valley.

This is an intolerable situation for us," Vega concluded.

[From the Citizen]

TESTS CONFIRM GAS IN SEWAGE

(By Anne T. Denogean)

Preliminary test results confirm that "dangerously high levels of petroleum-based products, primarily diesel and gasoline," were found Thursday at the Nogales Sewage Treatment Plant.

In making that announcement last night, Nogales Fire Chief Jose de la Ossa added; "It is anticipated that results from samples drawn from the sewer line at the Sonora border will reveal much higher concentrations of these products."

Final tests results are expected Tuesday, the fire chief said. Preliminary results have been forwarded to appropriate authorities, including the International Boundary Water Commission, he said.

The hazardous material that leaked into a Nogales-area sewer line Thursday forced evacuation of more than 4,000 residents on both sides of the border. They were allowed to return to their homes and businesses Thursday night after subsequent test readings were normal.

Continual monitoring of the sewer lines since Thursday night has found no unusual levels of petroleum-based products of any kind, de la Ossa said.

A 7½-mile-long, 300-foot-wide strip that covered territory on both sides of the border had been evacuated after workers from the sewage plant that treats waste water flowing north from Nogales, Son., detected very high levels of a gas, believed to be a petroleum by-product.

The source of the contamination remains a mystery.

U.S. Sen. John McCain, R-Ariz., yesterday called on Mexican President Carlos Salinas de Gortari "to investigate the source of repeated pollution of the border area."

"The Mexican government is still investigating with all the different agencies on the Mexican side to determine what the source of it is," said Carlos Peña, Nogales project manager for the U.S. section of the International Boundary and Water Commission.

Nogales Police Chief Luis Alday said he had spoken to his counterpart in Nogales, Son., and was told that Mexican authorities have some leads.

Jerry Slusser, an emergency response specialist with the Arizona Department of Environmental Quality, said the Arizona Attorney General's Environmental Crime Unit is investigating as well.

Peña said Thursday's problem did not result in any contaminated water being released into the Santa Cruz River.

The main sewer line leads to the sewage treatment plant, which then discharges clean effluent into the river.

If the contamination is a petroleum by-product, it will evaporate or dissipate before the water leaves the plant, Peña said.

Mr. BAUCUS. Madam President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1711

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table amendment numbered 1711. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Ms. MOSELEY-BRAUN] is necessarily absent.

I further announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

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

The result was announced—yeas 75, nays 23, as follows:

[Rollcall Vote No. 114 Leg.]

YEAS—75

Akaka	Glenn	Mikulski
Baucus	Gorton	Mitchell
Bennett	Graham	Moynihan
Biden	Grassley	Murkowski
Bond	Gregg	Murray
Breaux	Hatch	Nickles
Brown	Hatfield	Nunn
Bumpers	Helms	Packwood
Burns	Hollings	Pell
Byrd	Inouye	Pressler
Chafee	Jeffords	Pryor
Coats	Kassebaum	Robb
Cochran	Kempthorne	Rockefeller
Cohen	Kennedy	Roth
Conrad	Kerry	Sarbanes
Coverdell	Kohl	Sasser
Craig	Leahy	Simpson
Danforth	Levin	Smith
Daschle	Lieberman	Specter
Dole	Lott	Stevens
Dorgan	Lugar	Thurmond
Durenberger	Mack	Wallop
Faircloth	Mathews	Warner
Feingold	McConnell	Wellstone
Ford	Metzenbaum	Wofford

NAYS—23

Bingaman	Dodd	Johnston
Boren	Domenici	Kerrey
Boxer	Exon	Lautenberg
Bradley	Feinstein	McCain
Bryan	Gramm	Reid
Campbell	Harkin	Riegle
D'Amato	Heflin	Simon
DeConcini	Hutchison	

NOT VOTING—2

Moseley-Braun	Shelby

So the motion to lay on the table the amendment (No. 1711) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Madam President, on behalf of Senator WELLSTONE, I ask

unanimous consent that David Corvette, a fellow on the staff, be permitted the privilege of the floor during the pendency of S. 2019 and for all rollcall votes, and I make the same request with respect to Jack Fowle, on Senator MOYNIHAN's staff.

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

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, I ask unanimous consent that I be allowed to proceed as in morning business for 1 minute.

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

Mr. COHEN. I thank the Chair.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Madam President, we are starting to process amendments. That is good. We are starting to get a little bit of roll here. We voted on the amendment of the Senator from Arizona. I understand that other Senators are now ready to come to the floor and offer amendments.

I, again, urge Senators to come to the floor. There is time now within which to consider amendments. I remind Senators under the agreement, we are on the safe drinking water bill today and also tomorrow. Tomorrow there will be a joint meeting of Congress. The Senate will recess temporarily for that joint meeting in order to hear the address of the Prime Minister of India. There may be other times tomorrow during which the Senate will be unable to conduct business, which is to say Senators should not assume they will easily be able to bring up their amendments and have them disposed of tomorrow.

All amendments must be brought up and offered prior to the close of business tomorrow under the agreement. Staff is over here. If Senators want to send their staff over to work out amendments that, too, will be very appropriate. If the Senators themselves want to come over and debate their amendments, I strongly urge them to do so now.

Madam President, I now see the Senator from New Hampshire on the floor. It is my hope that he has an amendment.

Mr. GREGG. I do.

Mr. BAUCUS. I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1712

(Purpose: To prohibit the assessment or collection of penalties against a community if the noncompliance of the community with the Safe Drinking Water Act results from an unfunded Federal mandate)

Mr. GREGG. Madam President, I send an amendment to the desk. Frankly, I have not had an opportunity to send this to the chairman, so I also ask that a copy be given to the chairman.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 1712.

Mr. GREGG. Madam 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 74, between lines 5 and 6, insert the following new paragraph:

"(8) WAIVER OF PENALTIES THAT RESULT FROM UNFUNDED FEDERAL MANDATES.—

"(A) DEFINITIONS.—As used in this paragraph:

"(i) FUNDS.—The term 'funds' means amounts provided by the Federal Government to a political subdivision, including amounts that must be repaid by the subdivision.

(ii) UNFUNDED FEDERAL MANDATE.—The term "unfunded Federal mandate' means a requirement that a political subdivision undertake a specific activity, or provide a service, in accordance with this title during a period, to the extent that the Federal Government does not provide, directly or indirectly, funds that are necessary to undertake the activity or provide the service during the period.

(B) WAIVER OF PENALTIES.—The Administrator may not commence a penalty assessment proceeding under this subsection against a political subdivision and any pending penalty or penalty assessment or collection proceeding under this subsection against a political subdivision shall be waived, if the noncompliance of the subdivision that is the subject of the penalty or proceeding results from an unfunded Federal mandate.

Mr. GREGG. Madam President, last week, the Senate approved the conference report accompanying the budget resolution. That resolution contained a sense-of-the-Congress provision on unfunded mandates.

I had offered this provision when the Budget Committee was marking up the resolution on the budget. All 21 members of the committee voted for it and, of course, the budget resolution, adopted by this House and the other body has been approved. The provisions of that section of the budget resolution which we just adopted state:

The Federal Government should not shift the costs of administering Federal programs to the States and local governments.

I really do not think anything could be clearer as a statement of intent. It is a very appropriate statement of intent because, as we have seen all too often, it has become the nature of this Government—the Federal Government—to pass laws which are well-intentioned and well-meaning but to pass the cost of those laws on to the local governments and the States.

The practical effect of that is that we, as a Congress, can take credit for the well-intentioned purpose of the law, but we do not suffer the pain of having to raise the revenue to pay for it. Rather, that burden falls on the local communities and the States.

Another practical effect of this is that the local communities and the States find that their tax base is skewed by the activities of the Federal Government in a manner that makes it impossible for the local communities and the States to spend their locally raised revenues on the priorities which they consider to be most important. Rather, they must spend their local revenues on the priorities that are set forth by the Federal Government.

For example, a community may wish to hire more police officers or spend more on training its teachers or paying its teachers. They may wish to spend more on fire, or may wish to spend more on its local park system. But because of the pressure put on the local communities to comply with a variety of Federal laws which are unfunded but which mandate them to undertake action, it finds that a large percentage of its tax base has to be allocated for the purposes of paying the Federal activity, which has been directed on it, rather than the local decisions which may be their first priority.

And so this language was put in the budget resolution because I think most Senators understand this, most House Members understand this, frustration that is growing in our country amongst local and State representatives and leaders with the Federal Government telling the local communities to do something but not being willing to pay for it.

The bill that is before us represents a legitimate and genuine effort by the chairman of the committee and the ranking Republican on the committee to try to address this problem. They have been, I believe, very sensitive to the fact that unfunded mandates are the scourge of the towns and city governments throughout this country. But as hard as they have tried, unfortunately, there remains in this bill a fair amount—a considerable amount in fact—of unfunded mandate language and implications.

The EPA has estimated that the capital expenditures needed to meet the requirements of this safe drinking water bill are approximately $8.6 billion. That is a huge amount of money. That is the capital side. You must cou-

ple with that expenditure number the fact that there is a significant cost in compliance that is put on the local communities as a result of this bill.

My language is really quite simple. I do not go the full distance and say if the Federal Government does not pay for it, the towns and cities do not have to do it, although there are some strong and effective pieces of legislation that are cosponsored by a large number of Senators in this body—in fact, a majority of the Senators in this body have cosponsored language to other bills —which would accomplish that and which, if it were in law today, would directly impact on this bill. I do not even go so far as to say that as to this bill those funds which are allocated to the loan fund, which really are still an unfunded mandate because the towns must pay back the loans, will be counted as unfunded mandate obligations. They should be. They are. But I have not taken that step either.

Rather, I have tried to scale back the approach so that it would be more acceptable to the majority of the Members of this body, who I recognize are interested in passing an effective Safe Drinking Water Act, and this bill before us is an excellent act for that purpose.

The manner in which I have done this is to essentially say if a town does not comply with the Safe Drinking Water Act because it is unable to get funding from the Federal Government to comply with the Safe Drinking Water Act, whether it comes as a grant or whether it comes as a loan, then the town or city will not be subject to fines from the EPA for noncompliance.

The purpose of this really is to prevent the Federal Government from imposing what amounts to a double whammy on States and local governments by first hitting a State and local government with an unfunded mandate and then saying we are not only not going to pay for the mandate, but when you do not comply with the mandate we are going to fine you for not complying with the mandate. It really is an incredible double whammy, and unfortunately a large number of towns and cities get caught in it.

So what this amendment does is put the fines on hold. It does not even abrogate the fines. It puts them on hold as long as there is no money to pay for the capital expenditures or the other expenditures which are incurred to comply with the mandate.

It allows to be counted as a source of revenue for the purposes of paying for those funds the loan fund which, as I already mentioned, really is an unfunded mandate in and of itself, which we will for the purposes of this argument accept, and therefore go forward as if, when the loan fund is drawn down, the city or town will have been deemed to have received a Federal payment which would then mean that its failure to comply would institute the fines, or if the funds were available to it, its failure to comply would institute the fines.

It is really a quite simple approach and says no funds, no fines. I think it is the only fair way to go. I do not understand how, in fairness, we can say to communities first that you must do something; second, that we are not going to pay for it; and third, if you do not do it and do not pay for it, we are going to fine you for not having done it. There seems to be a contradiction in that approach which undermines obviously a fairness in the matter of relationships between different levels of Government.

I hope that the committee would accept this amendment. Obviously, if the committee is not willing to accept it, I would ask that we have a vote and if there no comments on this, I would ask for the yeas and nays.

The PRESIDING OFFICER (Mr. AKAKA). Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire yields back the remainder of his time.

Is there further debate?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, this is the first opportunity that the committee has had to look at this amendment. It was just offered a few minutes ago. It is the first opportunity the committee has had to look at its language, to assess its effect in order to better understand the actual implications and manifestations of the amendment. It was my understanding that the Senator from New Hampshire was going to offer an amendment in this area dealing with so-called unfunded mandates, asking utilities to indicate on their bill the amount that is attributable to various provisions in the Safe Drinking Water Act.

This is not that amendment. This is an entirely different amendment. So I must comment on it now as just a matter of first impression without having the opportunity to think it through.

Mr. President, the basic question is unfunded mandates. What is the concern? The concern on the part of many people is that the U.S. Government asks various States and cities and localities to undertake certain action in the name of protecting the public health and safety, and the concern is that although the U.S. Government passes laws working with States to try to find the right balance and the right ways to encourage good health and safety standards, the U.S. Government does not provide full funding to the States and local communities commensurate with or equal to the requirements in the legislation.

That is the basic concern. I might make several points, Mr. President. First of all, with respect to our environmental statutes, it is important to remember that our environmental statutes are really quite new. Our environmental statutes are basically about 20 years old. The Safe Drinking Water Act, the Clean Water Act, the Clean Air Act, Endangered Species Act, the National Environmental Policy Act, these are all major environmental pieces of legislation, most of which were passed in the President Nixon era to address some very legitimate environmental concerns, and one of them is safe drinking water.

Up until 1974, safe drinking water regulation was left to States, cities, communities, localities, and so forth. That is because traditionally in our country health and safety is the province of the States, and not the Federal Government. But the U.S. Congress acted in 1974 and passed essentially the first national Safe Drinking Water Act. It had a different name at the time. Why did Congress do so? Congress did so because of the very deep concern that States, cities, and towns were not doing the job. They were not providing for good, healthy, safe drinking water in their communities. There were many instances of illnesses, of deaths, and just a lot of water systems in this country were not providing good, healthy, safe water.

I think if there is anything this country is proud of, if there is any given that Americans take for granted and assume it is something they can count on, it is when they turn on the tap in their home that the water is going to be safe, they can drink it, or when they turn on their tap and make a cup of coffee it is going to be safe. They can drink it. It is clean, healthy, safe water.

I might say that up until somewhat recently when Americans traveled overseas, traveled abroad, the basic question was, "Can you drink the water? Is the water potable? Can you drink it? Is it healthy? Is it safe?" We Americans assumed that American water was healthy and safe. We assumed somewhat correctly, with some arrogance perhaps, that water in other countries was not healthy, and was not safe. They could not drink it. You could not drink the water.

Times are changing. In other countries, we are finding that the water is more healthy, is safe. You can drink the water in more countries than say 10, 20, 30 years ago.

Now there is a slight concern in our country that some of our water is becoming maybe not quite as healthy, not quite as safe as we assumed that it was.

For example, with the cryptosporidium outbreak in Milwau-

kee, there were headlines in many of the newspapers, "Milwaukee water is not safe to drink." There was a moratorium on drinking the Milwaukee water for some time.

In Washington, DC, another example: You could not drink the water in our Nation's Capital because it was not healthy, was not safe to drink. We finally got that straightened out after several days. Now visitors that come to our Nation's Capital can turn on the tap and drink the water without much concern or worry.

Another point: This is a complex Nation of ours. We have a complex form of Government. We are not one sole Nation. We are not 50 nations. We are 1 Nation and 50 States. It is therefore incumbent upon us to try to find the right balance between Federal regulation and State and local regulation.

We in this bill are doing so. That is, we are delegating much more back to the States—much, much more back to the States than was the case in the past.

But again I might go back and reconstruct just briefly. We in the Congress in 1974 did pass the national act because the States were not doing the job. The States and the localities and the cities were not doing the job to protect their water. So Congress stepped in in 1974 with the first, albeit mild, national legislation to help assure Americans that not only their own communities but when they travel across the country as tourists, when they go to visit friends and relatives in other parts of the country, that not only is the water in their community safe but it is also safe in the community they visit.

Americans are in transit. They move about a lot. They change jobs. We hear in the health care debate about job lock. "Gee. I cannot get a different job because my company provides good health insurance. The other job I am looking at, that employer does not provide good health insurance. So I am reluctant to leave, change jobs." It is called job lock.

We certainly do not want a clean water lock where Americans feel, "Gee, I do not know if I can move to that State. I do not know if I can move to that community because their water might not be as good and as safe as it is in ours."

Think of the children. If there is anything we want our children to have is an assurance that the water they drink is healthy and safe.

So unfunded mandates is the issue. This legislation dramatically reduces the burdens on communities, and particularly on small communities, small systems which feel the greatest brunt of the burden.

I mentioned that in 1974 the Congress passed the first Safe Drinking Water Act. We delegated certain responsibilities to the EPA. What happened? By 1986, EPA had not done the job. EPA had written standards I think for only one or two additional contaminants. I have forgotten the exact number, but not very many contaminants. So Congress in 1986 passed revisions to the Safe Drinking Water Act.

The Republicans were in control of the Senate. The Republican President, Ronald Reagan, signed the bill. It passed the Senate almost unanimously, and was signed without much fanfare, increasing requirements and standards across the country to better assure Americans that the water is safe to drink.

Here we are in 1994. What happened? What happened pretty simply is we went too far in 1986. We enacted standards that are too burdensome, particularly on small systems; that is, systems in communities with fewer than 3,300 people, because according to the laws of the economy of scale, the very large cities could much more easily allocate and distribute the monitoring costs and the capital costs associated with installing technology, filtering the water, and so forth than systems with too few hookups.

In fact, in small systems it is sometimes 10 to 14 times more costly per household to meet the same standards as a big city. That is one of the reasons we are hearing this concern about unfunded mandates; that is, the mandate particularly on small systems. The large systems really do not care very much about the mandates. They can do it. It is not very costly to them. It is the small systems that are having a devil of a time meeting the current 1986 requirements.

The bill before us very dramatically addresses that concern. It does so in many ways. First, we reduce the monitoring costs. There is a very significant reduction. In current law, all systems must monitor for each of the contaminants at least once a year over 3 years. Technically, it is one-quarter out of I think 3 or 4 years regardless of whether the monitoring—that is, the testing—detects the contaminant. That is in the law today.

That is big systems, small systems, in year one, you monitor. You test for various contaminants to see whether the contaminants are present in your water. If there is no detection, currently you still have to continue to monitor. Monitoring is very expensive, again particularly for small systems.

What are we providing? We are saying, OK. If you monitor—that is, if you test—and you find in the small system that there is no contaminant, you do not have to monitor again for that contaminant for 3 more years. We have reduced the monitoring costs.

I might add that monitoring is by far the biggest cost facing small systems. That is the biggest problem facing small systems—monitoring.

We also modify monitoring in another way. What is it? It is the State monitoring program. There is a big, big reduction in monitoring costs; massive reduction in monitoring costs.

Three States have taken advantage of the State waiver program: Wisconsin, Michigan, and I have forgotten the third State. In Michigan, the monitoring costs are now reduced to about 10, 12 percent of what they otherwise might be. There is a dramatic reduction in monitoring costs. Under the Michigan—as well as the Wisconsin—State monitoring program, those States figure out what parts of the State should we monitor because contaminants tend to be present? What other parts of our States should we waive monitoring because these contaminants tend not to be present? It depends upon where certain companies are located, it depends upon the groundwater systems, it depends upon a lot of factors. Again, it is a dramatic reduction. I do not know whether New Hampshire is taking advantage of the State monitoring system. But if any State were to take advantage of the monitoring program, they would find steep reductions in their monitoring costs.

Another provision is that we make it easier for States to apply for and be given authority under the State monitoring program. Today there is a State grant program, and we allocate certain dollars among States to help them meet their concerns by allowing these dollars to be available to help implement State monitoring programs. We have heard that some States would say, gee, we would like to apply to the EPA, but it is onerous, and it is hard to go through the hoops and the redtape. We heard that concern and we are making the changes necessary in this bill so that States—all States—can apply with much more facility to significantly reduce their monitoring costs.

What about the technology costs? Again, I repeat: By far, the most onerous burden that the "Safe Drinking Water Act" today puts on small systems is the monitoring costs. Without sacrificing health and safety, we are saying to small systems in particular, you do not have to monitor quite as often, again, if we do not find a contaminant. Beyond that, the States of New Hampshire, Rhode Island, California, or Montana, any State, can apply and work out a State program in some localities and monitor for contaminants, depending on the nature of the business and the industries and ground water vulnerability.

What about the few small systems that find out that they've tested positive? There is a contaminant in the water. What do they do? We have taken care of that by saying that small systems, after looking at other alternatives, such as consolidation, joint administrative costs, and so forth, you can apply for what is called "small system best availability technology"—off-

the-shelf technology. I must say that as technology advances, the costs of off-the-shelf small system best available technology are getting a lot lower, dramatically lower. So we are significantly, dramatically reforming the mandates, saying there is much less of a mandate than there has been in the past.

Second, we are funding the reform mandate. This legislation provides for a whole new program, a State revolving loan fund for States to address their drinking water system needs. The authorization is $600 million in the first year, already provided for and appropriated; $600 million has already been appropriated in this Congress for this year. We also provide for a billion-dollar authorization for next year and each of the succeeding years, until we get up to $6 or $7 billion. It is the safe drinking water State revolving loan fund, under which all States—New Hampshire, for example—could decide that here we have a small community having a devil of a time meeting the mandates. Remember, we have dramatically reformed them. They are much less than they were. I guess that is a 70 percent reduction in costs for monitoring, and a 20 to 50 percent reduction at least for technology for smaller systems, which are bearing the brunt of this. Also, there are big changes for the large systems, too. New Hampshire can decide, OK, this small system cannot quite make ends meet, so we are going to give them a very low interest loan to help them install their technology.

We in Congress are funding the mandate. They might come back and say: What about the systems that cannot afford it? We provide in this legislation—I think it is up to 30 percent of the State revolving loan fund may be provided to systems by States for interest writeoff and principal writeoff—in effect, a grant to those small communities. We are providing the dollars. They are there.

Another provision in this bill is in a whole new area related to the Clean Water Act. What is that? Essentially, it is the legislation that helps ensure that our rivers, lakes, and streams are cleaner. The Clean Water Act also has a State revolving loan fund for wastewater treatment plants for communities to make sure they have the wherewithal to build their sewage systems and their wastewater treatment systems. It is a big program. I think it is close to about $2 billion, roughly, annually. We are providing in this legislation that States can transfer dollars out of the Clean Water Act State revolving loan fund over to the safe drinking water loan fund and vice versa, which is a lot more flexibility for the States, to have a new source of money.

I will sum up by saying that we are undertaking three very important constructive measures here that hit the nail on the head. That is, they direct this unfunded mandate concern, reforming the mandates, and say, OK, we are reducing the redtape and the burdens and particularly where it is most onerous—that is, particularly in the small systems—reforming the mandates.

No. 2, we are funding the remaining mandates with a new program, State revolving loan fund.

Three, we are giving much more flexibility to the States, much more. Each State is different. The flexibility is essentially that States can set up their own monitoring program, at a very reduced cost. And, in addition, we are saying a Governor can switch dollars from the State drinking water revolving loan fund to the clean water revolving loan fund, and vice versa. There is more flexibility there. Those are some of the provisions contained in this legislation to address the very legitimate concern that the Senator has and that people across the country have.

Our committee has met incessantly, constantly, with groups across the country to try to find a way to make this drinking water program work better. What we are doing here today is revolutionary. We are not standing on the floor with a whole new environmental statute. We are not enacting a whole new statute to rush in and address the problem. We are not doing that. We are taking an existing statute and reforming it, making it work better. We are addressing people's concerns. I think when Senators take a long, good hard look at the actual provisions of this bill, they will find that it makes sense.

There is a coalition of drinking water systems and of organizations across the country that had some earlier concerns with this bill. We have worked with that coalition, and because of a series of changes, they no longer have concerns with this bill. At least they do not oppose this bill. I think that it is safe to say that they now support this bill. I have just been assured that they will support the bill.

Let us get on to the amendment. It basically provides, as I understand it—and it was just handed to me—no penalties may be assessed by a Federal agency—essentially the EPA—and no action may proceed with respect to any system violating a provision of the Clean Water Act. I guess that would essentially be the U.S. attorney's office, at least in Federal court, that would file or commence any proceeding under the Clean Water Act. None of that could ever occur if there was a determination that there were not sufficient Federal dollars going to that—it is unclear here. I guess that it is the political subdivision fully providing for payment for that requirement—in this case a Federal requirement.

Various questions come to my mind. No. 1: How do we know whether or not there is a so-called unfunded Federal mandate? Does that mean 100 percent of the costs have to be paid? Does it mean that 80 percent are paid? Does it mean 90 percent are paid? What happens when there is a contract which provides for full payment; yet, we are only halfway through the terms of the contract? What year are we in? Because whenever a new system is built, it is not built in the first year. It takes several years to build it.

And sometimes, with a small percentage of the States, revolving loan funds are allocated to pay for the first 2 percent requirements in the first year. The second year it might be 20 percent completed construction; it might take several years to complete the construction.

So what do we mean by unfunded mandates? I can see all kinds of litigation to respond from this thing. I do not think it is the Senator's intent to stop dollars from being allocated to these systems.

But then there is a more fundamental point that comes to my mind. What if a State is not providing for its people? And what if Uncle Sam says you must? And what if it turns out, in trying to work out how we pay for it, that the city is out of compliance because it is thumbing its nose at its citizens, or the Congress, or the State? Then, according to this, the Federal Government could not commence a penalty assessment proceeding, it could not commence any kind of a proceeding to bring that system into compliance.

I would think, Mr. President, that the people who live in our cities and towns across our country, their first concern is that the water is safe. That is going to be their first concern. Is it healthy, safe water to drink? I bet that is their first concern.

Second, they are going to be concerned about who is paying for it, and how it is paid for. I would guess they would not want the Congress, the States, the county commissioners, the water commissioners, to be in this big hassle which would result in no enforcement; no Federal enforcement, certainly. I would think they would want to make sure, first of all, that the water is safe and then, secondarily, to figure out some other way to address these questions.

Again, I want to sum up by saying, I do not have a total account as to whether these so-called mandates are fully funded or not. I would not be surprised, in some instances, if they are overfunded. Some of these communities get an awful lot of dollars under State revolving loan fund allocations that may be above and beyond their needs. I do not know that.

But this bill is so generous in reducing the mandates and so generous in providing dollars, it has occurred to

this Senator several times that some of these communities and States around the country are getting a pretty good deal.

We have certainly addressed the question of unfunded mandates with respect to the Safe Drinking Water Act. And that is all this amendment is tailored to, as I understand it, and that is the Safe Drinking Water Act.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from New Hampshire.

Mr. GREGG. Madam President, I certainly appreciate the chairman's lengthy and very substantive explanation of the process the committee went through in developing the Safe Drinking Water Act. And, as I said in my opening statement, in commenting on my amendment, I thought it had done a fine job attempting to address this issue and that it had recognized unfunded mandates remain a serious concern, and that it had, as the chairman has outlined, undertaken a number of initiatives to try to address this.

But, by the terms of its own report language, we have here an unfunded mandate of a minimum of $3 billion. That is the difference between what CBO estimates capital expenditure costs to be and what the revolving fund will be. That does not account for the significant dollars which the chairman also reflected on relative to compliance and relative to monitoring, which are very, very expensive.

Even if the local communities are able to apply for the technical assistance grants, even if they are able to apply for the direct grants out of the revolving fund, there is still the compliance issue which is extremely expensive.

So there is no question but there is a significant cost put on local communities to comply with this bill. And I do congratulate the committee for attempting to address those costs and attempting, in a very logical way, to do that; and in a way that has not traditionally been done in many of the environmental bills that has come before this Congress throughout the 1970's and 1980's. So I hope this is a new path we will be seeking, because it is a more reasonable path of dealing with different levels of the Federal Government, especially local communities.

But that does not resolve the problem completely, because there will be instances where the Federal Government will be demanding of a local community that it take action, but then it will say, but we have no funds available from the loan fund—which, remember, is also an unfunded mandate, but which issue I am setting aside for a moment—but there will be no funds available from the loan fund because the loan fund will have been exhausted for that year and it may not be available until next year or the following year or maybe it will not be available at all. But, in any event, there is no money at the point when they are told to do something to help them do it.

I am not saying the town or the city can escape the law and say, well, therefore, we do not have to do this. That is not part of this amendment.

What I am saying is that, at that point, there cannot be fines assessed against the towns and the cities for not complying. Rather, they are going to have to sit down at the table and work out an agreement. That is the whole point of this amendment; where the EPA, and the State, and the local communities that are being impacted will figure out where they are going to get the money to do this with.

That is a no funds, no fine approach. It is not an approach that says if there are no funds you do not have to do it. It is not that type of approach. Although, as I have mentioned, there are a number of bills in this body right now which have a majority of sponsorship of the membership of this body which say exactly that and where they say this bill could not go forward in a number of instances because of that situation. But that is not the tenor of this amendment.

What this amendment tries to do is to avoid the double whammy. First, you do not give them the funds, then you hit them with a fine. All we are saying, if you do not give them the funds, you cannot hit them with a fine. You can hit them with a fine later on if they do not get the funds available. But, first, you have to have the funds there so there is a little fairness in this process.

Now, the chairman raised two points in his commentary on this. He said, what is an unfunded mandate? I think it is essentially defined by the body that is assessing the fine. If the EPA comes in and says, "This must be done," that is a mandate. And if it says, "This must be done and if you do not do it we are going to fine you," then that is clearly the mandate that is being talked about. And if there is a fund out there to pay for it, then the issue of it being unfunded is no longer in question.

If the State has the funds, the EPA can point to the funds and the town has to either go and apply for that money and get that money to do what it is supposed to do, what it has been appointed to by the EPA, or designed by the State environmental services agency, or if it does not do it, it gets fined because the money is there.

But if the money is not there, not in the revolving fund, and the EPA says, "You must do this," then it cannot assess a fine at that point. It can the next year, if the money comes back into the revolving fund. If the State replenishes that revolving fund, then the EPA can say, "Well, we told you to do that last year and you did not do that. That does not relieve you of the responsibility. This year the money is there, so we expect you to do it." Then they can assess the fine.

So I really do not see that as being a legitimate point of contention. First, the unfunded mandate is defined by the terms of a filing, which the EPA would undertake and, secondly, clearly if the money is there, fines have to occur or compliance has to occur. So it ends up as even fewer lawsuits. In fact, it energizes the settlement of the matter, rather than the opposite occur as to what I think has been represented by the chairman as a possible problem with this amendment.

This amendment is just logic. It is fair play and common sense. All it says is, "Hey, listen. You can tell a city to do something"—and you have a right to tell them to do something; we are not denying that right to this bill; to clean up their water, make sure it is clean—"but when you tell them to do it, if you cannot fund it, you cannot fine them for not doing it."

And since the chairman made, at great length, a statement that said basically what we are going to do is come in and fund here, we are going to come in with enough money over the time period to do it, this amendment should not even be needed to be debated. It should be accepted on the grounds that, hey, it is never going to be needed because at some point the process will be funded and, therefore, the amendment will not have an effect, if the chairman's philosophy of the way this is going to work works out, and I hope it does.

But there is always the occurrence that may come about that maybe the Appropriations Committee is a little short of money one year and does not fully fund the authorization; maybe for some reason the revolving fund in the State has drawn down a lot faster than it was expected and it cannot fulfill all the obligations that year and has to wait until next year. In those instances, I do not think it is fair to be assessing fines against towns which are not complying. It does not mean they do not have to comply at some point. It just means they cannot be fined until we can help them out by giving them the dollars to support them. So the amendment is simple. I am not sure when the chairman wishes to go forward with a vote on this, if he wants to go forward now or if he wants to roll the vote over to a time certain with other votes. I do not know what his plans are but I would be amenable to whatever he wishes to do in that regard.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I commend the Senator from New Hampshire for his interest in these unfunded Federal mandates. He has spent a lot of

time on this and is deeply concerned. He was a Governor, as perhaps he has pointed out, so he has seen the effects of the Federal Government levying requirements on the States without fully funding them.

However, it is nothing unusual. I must say, although the Clean Water Act and waste treatment requirements under that are not 100 percent fully funded, as we all know—the State puts up some—the Federal Government puts up usually about 75 percent—but in the end the communities and the State have to obey, otherwise our waters would never be cleaned up.

As I understand the amendment here—correct me if I am wrong—first, it deals solely with the Safe Drinking Water Act. Second, as I understand it, it says that there can be no requirements by the Federal Government levying on the communities requirements to keep their water clean unless the Federal Government has fully funded those requirements.

As I understand, it is not quite that way. It says there can be no fines levied for failure to comply. Am I correct in that?

Mr. GREGG. The Senator from Rhode Island is correct. It is the issue of when the fines can be levied that is raised by this amendment.

Mr. CHAFEE. In other words, if the fines cannot be levied, there is really no real requirement that the community obey? I think that follows; otherwise, what is the incentive for them to obey? If they do not obey there is no penalty?

Mr. GREGG. If the Senator from Rhode Island will yield, first, the issue is, if you are going to order the towns to comply, you should support the towns with funds to pay for that. If you do not have the ability to support the towns with funds in that year, then the fine will not apply that year. The next year you can make the funds available and then you can fine the towns to force them to comply.

Mr. CHAFEE. What the Senator from New Hampshire is saying, in effect, is that the Federal Government has no ability to levy a safe drinking water requirement on a community unless the Federal Government is prepared to pay 100 percent of the funds required to comply with that demand by the Federal Government, with those regulations?

Mr. GREGG. If the Senator will yield, I am saying, under this act, to the extent the Federal Government directs the communities to undertake an action, if the Federal Government is not supporting that action with funds, then the Federal Government can continue the directive but it cannot insist on collecting fines—which would be the double whammy effect of, first, you tell them to spend the money, and then, if you do not have any money to support the event, you tell them you are going to fine them—until you do support them.

Mr. CHAFEE. I am not sure in the amendment of the Senator that it says they cannot afford to do so. It is just if they do not do so, as I understand the amendment. I can be corrected.

Mr. GREGG. If the Senator will yield further, there is no condition of affluence testing, who can and who cannot comply with the Federal law. If the Federal Government is going to enforce the law, the theory is the Federal Government should pay for the cost.

Mr. CHAFEE. It seems to me, Madam President, that what we are doing here, if this amendment should be adopted—and after all, if it applies here, I see no reason why not the next step, when we have a Clean Water Act, why the same requirements should not be levied on that. If the Federal Government is not prepared to pay 100 percent of the cost of waste treatment facilities to clean up lakes, rivers, and streams, then the local communities do not have to do anything.

But that is a step ahead. I am going to stick right to this treatment of safe drinking water. It seems to me the Federal Government, with the tremendous mobility that exists within our populations and with the tremendous amount of travel that takes place where somebody from Ohio is going to California or somebody from Nevada is going to New Hampshire or somebody from Montana comes to Rhode Island, that the Federal Government has a certain right to ensure, to the extent it can, to the citizens of our Nation, that the water they drink is clean. If the Federal Government is going to step in and be helpful, that is grand—as we do in this legislation. We start, under this bill, with $600 million of revolving funds to help the local communities produce clean water. This is the first time we have had a revolving fund in that area, so this is a big step forward.

But to say the Federal Government has no power to ensure that traveling citizens of this Nation are going to be safe where they go in the water they drink unless the Federal Government pays 100 percent of the cost I think is a very unusual step. I do not think that is a fair requirement to levy in connection with the safety and the health and well-being of our citizens.

Mr. GREGG. If the Senator from Rhode Island will yield, I think it would be unusual for someone to travel from Montana to New Hampshire and find that the water in New Hampshire was any less of a quality than it was in Montana. I believe the scenario that has been laid out is at best hypothetical and a bit exaggerated. The fact is, the people who live in the community where the water is delivered are the ones who have the most significant interest in maintaining the quality of that water.

I guess the Senator is going forward with the assumption the only people who are sensitive to having water that is clean and potable are people who live in Washington or work in Washington. I know the Senator is not of that mind. I know he recognizes fully the people of Rhode Island and New Hampshire and the town of Barrington, RI, and the town of Nashua, NH, are as sensitive to having good water as the people are in any other part of this country.

So there is clearly an innate and inherent incentive for the local community to maintain its water supply at a high level of quality. And traditionally in this country that has occurred.

That is not to argue against the concept of a Federal law in the area. No, I think a Federal law in the area makes considerable sense, and I think the law this committee has produced is an excellent piece of legislation. But when the Federal Government decides to step onto the turf of the local community, which has the primary interest of delivering water to its citizenry, and tell the local community exactly what it should be doing relative to the delivery of water to that community, something it has been doing for probably 200 or 300 years, at least in the New England area, without this law—prior to 1974 when it was first initiated, and amended in 1986, I guess—then I think the Federal Government, once it decides to enter into the issue of directing the local community as to how they are going to manage their water supply, has a very definite obligation to pay for the additional costs that it is putting onto the local community.

I am not even demanding, or suggesting, that occur. I am not even requesting that occur in this amendment. If I wanted to take that approach, I would have brought forward one of the many bills of this body that do exactly that, that say the mandates should not go forward and there be no need to comply unless they are fully funded. Nor am I even pointing out that the funding in this bill is really an unfunded mandate in and of itself. There is no substantive—it is a loan, it is not a direct grant, and therefore the towns have to pay it back and thus the funding is an unfunded mandate.

But what I am saying and what I think makes eminent sense is, if you are going to demand the communities do this, then you cannot say they are going to be fined when you do not fund it.

It is a very simple approach. It does not say they do not have to comply. It says they do have to comply when the revolving funds have the moneys that are available. And in practice, of course, as the Senator from Rhode Island certainly knows, that is exactly what is going to happen.

As these revolving funds develop the cash flow to support the compliance activity across States, you are going to have compliance occurring. All I am saying is let us not get the cart ahead

of the horse by requiring fines before there is money to pay for the compliance, because you know compliance is going to occur because you have done a good job of trying to address the issue of funding.

I think if you look at the practical aspects of how this works versus the theoretical and hypothetical aspects, it becomes a very legitimate proposal.

Mr. CHAFEE. Madam President, I think we are embarking on an unusual path for the Federal Government to require compliance: When it is granting a substantial sum of money but not 100 percent that it cannot make any requirement. Maybe the thing should be reversed. Maybe we ought to have a provision in here that no money goes to any State that will not comply. Maybe that is the answer: Any State that does not want to comply will not get a nickel. The money will go to those States who want to participate, and by wanting to participate, I mean they are willing to put up their share, whatever the share might be.

Mr. GREGG. If the Senator will yield on that point, of course, that is an option, and if the committee wishes to pursue that—as you know, on public works projects dealing with Federal highways, that is exactly the approach this Congress has taken in the area of helmet laws and in the area of speed limits.

So, yes, that is clearly a public policy approach that can be taken. The committee has decided to go this other way. As long as the committee decided to go the other route, then let us not get the cart ahead of the horse and let us not have a situation where you do not fund and then you fine.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, Senators may be watching this debate and assuming that this is another amendment offered by the Senator from New Hampshire under the unfunded mandates rubric. They may think this debate is on that amendment. I want to make it clear to Senators listening to this debate that this debate is not on that amendment. This debate is on a wholly separate, new, amendment that the Senator from New Hampshire brought to the floor and we are looking at for the first time.

This amendment is a beguiling, seductive amendment. It sounds pretty simple. Basically, it says if there are no funds, no fines. I might say, Madam President, that this is not that amendment at all. This is an amendment which basically has abolished Federal enforcement of the Safe Drinking Water Act. That is what this amendment does. This amendment runs the great risk, and that is not an overstatement, of essentially abolishing Federal enforcement under the Federal Safe Drinking Water Act. That is what it does.

Why do I say so? I say so because any system, any community that does not want to comply with the act could very cleverly hire a lawyer to find some argument where the requirements that it must face, A, are all Federal and, B, are not totally, fully funded today, at this moment. They may prevail, and that means no Federal enforcement.

I do not think that is what Americans want. They do want Federal enforcement. I think Americans want to be assured that the water they are drinking is safe. They want Federal enforcement, but they want proper Federal enforcement.

I have a whole list of questions I could ask the Senator from New Hampshire to see how his amendment would take effect. For example, is he asking for a full 100 percent Federal?

My first question goes to the State revolving loan fund. There is a 20-percent State match to 80 percent Federal funds required. Is the Senator from New Hampshire saying that the U.S. Congress must not provide only 80 percent in the State revolving funds, but must provide a full 100 percent? Is the Senator saying the State's 20 percent requirement can be withdrawn, that the States do not have to contribute their 20 percent to the State revolving loan fund? Is that what the Senator is suggesting?

Mr. GREGG. As I understand the act, it requires States put in 20 percent; is that correct?

Mr. BAUCUS. The Senator is correct. Under the State revolving loan fund that exists in the Clean Water Act and under the new State revolving loan fund under the Safe Drinking Water Act—that is the bill before us—it provides for a match: 80 percent Federal, 20 percent State.

Mr. GREGG. Then there would be compliance if the Federal Government had 80 percent of the funds.

Mr. BAUCUS. So the Senator is saying that if the U.S. Congress appropriates 80 percent of the funds under the State revolving loan fund, and if that State revolving loan fund pays for the system's requirements, the State could not claim unfunded mandates as it affects any enforcement action against that community? Is that what the Senator is saying?

Mr. GREGG. I am not sure I understood the whole hypothetical. Essentially, I believe the concept of what the Senator from Montana is saying is correct. This is not an attempt to undermine the thrust of this bill. I really do think it does a disservice to the amendment to aggrandize it to such a level, as the Senator from Montana has. This is simply an attempt to make it clear that when the fining process starts to occur, then the Federal Government will have done our job.

Mr. BAUCUS. I understand the Senator, but I am trying to understand how the Senator's amendment works. Again, this is a first impression. I had not seen the amendment until 20 minutes, half an hour ago when the Senator brought this amendment to the floor. No one has had a chance to look at it. I am reading it to get a sense of how it works.

For example, if I understand the Senator's answer to my question, that under the State revolving loan fund contemplated in the bill, where Uncle Sam provides 80 percent and States 20 percent, if that fund's loans to the community fully accommodates that community's requirements, is the Federal mandate fully funded?

Mr. GREGG. Yes, it would be.

Mr. BAUCUS. I appreciate that. So the answer to the question is it is fully funded under the present State revolving loan fund where Uncle Sam provides 80 percent and the States 20 percent for the system.

Mr. GREGG. If that is the language of the bill. The mandate is defined by the bill in a sense of what the Federal Government must do. If the Federal Government's share was 50 percent, it was fully funded.

I would take as a hypothetical another area where there is a mandate, 91-142, which is the special ed student situation, there you have a suggestion in the law that the Federal Government go to 40 percent of the cost of the special education systems of our schools. If the Federal Government went that 40 percent, they would be fully funded.

Mr. BAUCUS. The Senator anticipated my next question.

Mr. GREGG. We can adjust that number.

Mr. BAUCUS. If the Congress provided, in its wisdom, for 1 percent and the States had to match 99 percent——

Mr. GREGG. The purpose of this amendment was not to address the underlying issue, which is the core question, which is when is the Federal Government being irresponsible in its unfunded mandate activity.

Mr. BAUCUS. So it is the Senator's position that the Congress would not be irresponsible if the Congress decided to provide 1 percent of the revolving loan fund as opposed to 80 percent. That would not be irresponsible?

Mr. GREGG. I feel that is very irresponsible. In fact, I considered offering an amendment which would address the underlying question you are raising which is the much more fundamental question of the issue of unfunded mandates. This is not the core issue of what is and is not an unfunded mandate. I think we are confusing it in the debates right now.

What this gets to is the fine issue. There is this other core issue, and I hope it is going to be taken up at some point in this Congress because I know there are a lot of bills floating around on the issue, and some have significant sponsorship. But that is not the issue

that is being adjudicated by this amendment.

Mr. BAUCUS. Let me ask another question so we understand how it operates. Let us say a community in New Hampshire is starting to install a new technology to meet a standard that is provided for in the Safe Drinking Water Act; a good standard; a standard that must be addressed if the people are going to have safe water.

Let us further assume that this is a 5-year project. You do not just build this new technology and install it immediately.

Now let us say it is year one and contracts have been let. As the Senator knows, under the usual workings of the State revolving loan fund, each year the State designates a different portion of the State revolving loan fund, actually loans different portions to different communities in different years.

So in year one, the system is not yet constructed. Certainly no big mandate here. Let us say that for some reason or another the system decides it does not want to proceed and therefore is in violation of the law, although there is a contract and assurance that the dollars are there in the revolving loan fund.

Is the Senator saying because the dollars have not been fully provided, because the system is not complete yet, that——

Mr. GREGG. No. In my estimation, you would then be able to assess the contractor.

Mr. BAUCUS. What if the community goes beyond the grace period in the bill? The legislation before us provides certain grace periods. As long as this system is making a good-faith effort, there is no prosecution. What happens after that grace period?

Mr. GREGG. If funds are available and there is a contractual obligation, it seems to me the fine is assessed.

Mr. BAUCUS. What about interest rates? Let us say the interest rate the community must pay Uncle Sam is not providing for interest payments. Is Uncle Sam fully funding the mandate or not?

Mr. GREGG. I would presume—and we are getting into some hypotheticals, which I think is worth getting into, and I think the answers so far have reflected the fact this is a legitimate amendment that is not going to destroy the bill, but is just trying to get at the core issue of fines versus funding.

But I think in that context you would presume that the agreement that had been worked out which would have drawn down the revolving fund would have interest rate language in it. I know of very few that do not have interest rate language in them. So I presume that would be a fund advantage.

Mr. BAUCUS. One other question. What happens when a community decides, for whatever reason, it wants to voluntarily not accept Federal funds. It does not want to pay the interest rate in the State revolving loan fund, for whatever reason. It decides it does not want to participate in the State revolving loan program? In that case, would Federal prosecution be precluded because the mandate on this system does not have commensurate Federal funds? It does not in this case because the community has decided it does not want them. Would Federal enforcement therefore be precluded?

Mr. GREGG. No, I do not believe so at all. I think this amendment makes it fairly clear that in that instance the funds are available; therefore——

Mr. BAUCUS. I must say that is not the language of the amendment.

Mr. GREGG. Well, I think that is the purpose and the language of the amendment, to accomplish exactly that.

Mr. BAUCUS. No. The amendment says, "The Administrator may not commence a penalty assessment proceeding under," and so on and so forth, "or proceeding results from an unfunded Federal mandate." That is what the language of the amendment says.

Here is another example. What happens when the State of New Hampshire or any State applies for a waiver, a monitoring waiver program, so that——

Mr. GREGG. Excuse me.

Mr. BAUCUS. If I may complete my question—so that the State has its own monitoring system. This is a State monitoring system now. It is not a Federal monitoring system. Now, let us say that under the State monitoring system the State imposes certain requirements. Under the Senator's amendment, would Federal prosecution be precluded if a community does not properly monitor because the community is operating under a State program, not under a Federal program?

Mr. GREGG. To get back to the Senator's prior question, I believe my answer was accurate. If you look at the definition, you will see, if the funding is available, the capacity is there to assess the fine. If the community decides it does not want to pursue the funding for whatever reason, that is irrelevant. The funding is available; the fine can be pursued.

On the followup question, which is, if I understand it correctly, if States are undertaking the compliance activity of monitoring, does the EPA have the right to come in and pursue also a Federal action against the community?

I would think yes, if the funds are there. And, again, it is an issue of whether the funds are there. If the funds are there and the community has the available funds, has had made available to it the funds, then it seems to me a fine is clearly assessable.

I think the chairman is confusing the core issue here, which is a very legitimate one, which the committee has, I have argued a number of times, attempted to meet, the core issue of unfunded mandate with the issue here of fines.

What I am saying is we should not hit these communities with a double whammy. I do not want to keep repeating it, and maybe I should choose some other phraseology to get it across a little better. But what I do not want to see happening is if the town does not have the funds available to it, then it gets fined for something it does not get funds to do. All I am saying is as soon as the funds are available, it could be fined. Under the bill, as I understand the structure, those funds are going to become available over a period of time because the bill is authorized at a level which, over a period of time, should fully—I am not sure of "fully," but should significantly reduce the costs out there to the communities.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Montana.

Mr. BAUCUS. Mr. President, I do not want to prolong this too much longer. Essentially, the Senator from New Hampshire said this bill does not go into the difficult question of what is and what is not an unfunded mandate. That is very true. That is clear. This bill does not go into that point, and very precisely because it is a very complex, difficult morass to decide.

The effect of the Senator's amendment is to give lawyers a field day in finding one way or another, in claiming for one reason or another, that this requirement, for this technology, in this community is not fully funded by Uncle Sam. I can think of countless numbers of arguments that attorneys can make.

Therefore, Mr. President, this amendment essentially renders useless, Federal enforcement because if it is a long, complex system, there will be endless litigation as to whether or not there is full funding of the mandate.

I might also say, Mr. President, that we have gone a long way to find new dollars to fund mandates. Look at the chart behind me. I do not know if the Senator can see the chart very well. We tried to make it big so everybody could see.

Mr. GREGG. I appreciate that. I am just getting to the age where I need glasses.

Mr. BAUCUS. Under current law, safe drinking water funding in fiscal years 1994 through 2000 will be $420 million. That money is going to the States. Under this bill, if it passes, $7.3 billion will go to States to fund the reformed mandates that the bill provides.

The basic intent of the Senator's amendment is to address the very large issue of unfunded mandates.

Again, I say to the Senator and to anyone listening that this bill addresses unfunded mandates; No. 1, by reforming the mandates; No. 2, by fund-

ing the reform mandates, and, No. 3, by providing flexibility to the States so they can adjust to local conditions quite easily.

Again, just to repeat, from 1994 through the year 2000, under current law, States will receive about $420 million to pay for requirements under the Safe Drinking Water Act. If this bill passes, that increases at least fourteenfold to $7.3 billion over the same number of years. It is a whole new start. The State revolving loan fund is all new. It will go a long way to address these issues.

Mrs. BOXER addressed the Chair.

Mr. BAUCUS. If I might, one other point, Mr. President. It is not as if the EPA is sending out thousands of inspectors to harass local water system operators either. That is just not the case. There is not a massive Federal enforcement apparatus in place. I might say that in 1992, the Environmental Protection Agency brought 269 cases under the Clean Water Act—not this act, a different act.

In 1992, there were 269 cases. They brought 303 cases under the Clean Air Act; different act, not this act. Under this act, it brought 18; only 18 cases, not a massive number of cases.

In addition in 1992, the highest penalty under the Clean Water Act, a different act, was $2.9 million. Under the Clean Air Act, the highest penalty in 1992 was $6.7 million. What was it under the Safe Drinking Water Act, this act? The highest was $70,000. I think the average of that year was $38,000 for the two cases.

One other point: There are 200,000 public water systems in this country. There are only 60 EPA drinking water inspectors. There are 200,000 systems in our country, and only 60 inspectors. It is not a whole, big massive enforcement bureaucratic apparatus that is going after all of these systems.

Another point that is important to remember. I do not know if the Senator fully intends this amendment. A significant percentage of the drinking water systems in our country are private. As I read this amendment, it only applies to the public systems. It basically says the administrator may not assess a penalty against a political subdivision, et cetera. It says political subdivision. Apparently, he has exempted privates, which is to say that a significant mumber of the water systems in this country would be discriminated against under the Senator's amendment because they would not have the benefit of saying, "Gee, don't enforce against me because I am private and not public."

Another point I think worth making is that there are a lot of, a good number of, communities frankly that need some Federal enforcement. There is one city that the committee is aware of that for 10 years refused to correct violations of bacterial contaminant standards under the Safe Drinking Water Act. Frankly, it was only when the EPA went to court to assess a penalty did that city finally begin to take serious steps to remedy the problems.

In some sense, what I am saying is, frankly, a lot of cities, a lot of States, do not want to do the job themselves. It is politically difficult. It is politically difficult for a local county attorney or an attorney general to address violations in the State. Many States say, "Gee. Uncle Sam, do this for us. It is hard for us to do the right thing here."

If this amendment passes, it seriously jeopardizes not only the ability of local law enforcement officials to say, "Gee. Let the Feds do it because I don't want to do it myself," but more importantly, it very seriously undermines the whole Federal enforcement program under the Safe Drinking Water Act, which is not massive, I might add. As the data already provided, that is a good, strong indication that this is not a big Federal enforcement program. It is pretty mild to say the least. It is important in those cases where the communities are not living up to the standards, and they should.

Mr. GREGG. Mr. President, will the Senator yield on that point?

Mr. BAUCUS. I yield to the Senator, and then I will yield the floor.

Mr. GREGG. Mr. President, the Senator raised a number of points. I do not want to carry this into an extended period of time because I know there are other Senators who want the floor.

First, some things need to be responded to. This whole issue of excessive attorney fees, and a great deal of lawyer activity today is a problem with the system. So I do not see that that is necessarily going to be impacted negatively by delaying the fine.

Second, I would point out that the enforcement language of this does not affect if funds are available. So the instance that the Senator talked about, I presume there were available funds going to that city to fund the activity that needed to be corrected. Therefore, there were those available funds. Then compliance would have to occur and the fines would be assessed. This is not applied to private water companies. That was intentionally done because the issue of unfunded mandates is a public one to a large degree, and I did not want to get into the whole ancillary question of the private-public debate and the profitable part of the corporations engaged in the delivery of water and how you would end up subsidizing them through this language.

So we would be stuck with the taxpayer impact event because the issue here is impact on the tax base and the reallocation of the tax base through unfunded mandates.

All this amendment says again is that if it is not funded, you do not fine. It does not undercut the basic goals of this bill I do not think. In fact, it probably encourages the basic goals of this bill because this bill is addressed, as the Senator so well pointed out, at trying to fund most of the mandates. As long as they are funded, there will be no fines.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

Mr. President, I rise to speak strongly against this amendment by the Senator from New Hampshire, and really back the comments made by the chairman, the Senator from Montana, and the ranking member, the Senator from Rhode Island, Senator CHAFEE.

I have to say that I have been around the House of Representatives and the Senate now for 12 years, and I have never seen a committee chairman and a ranking member work so well together, bend over backwards to accommodate Senators' concerns. As a matter of fact, in many cases I kept saying you are bending over a little too much.

But the fact is that when the two of them stand up here and put their credibility on the line and say that this is essentially a gutting amendment, I hope that my colleagues listening to this debate from their offices will take that to heart. There should be an overwhelming vote against this particular amendment.

I want to explain why. I want to speak today not only as a U.S. Senator, which I am very proud to be getting elected and being from the largest State in the Union, a State that has 31 million people, but also as a former county supervisor where I was very proud to be a locally-elected official representing a supervisorial district in a very beautiful suburban area, and one who always said that the local people should have a very strong voice in whatever it is we are doing.

At the same time, I always believed, and I believe it even more today, that the Federal Government has an obligation to protect the health and safety of all the people of this country. As Senator CHAFEE has said, and as Senator BAUCUS has said, when people go from one State to another, they ought to know that if they pick up a glass of water like this one, which I find myself doing quite often here, that it is safe to drink the water.

I would like to bring us back to the reality of why we are here. And rather than get into a big argument about terms of art and language of the amendment, and the interpretation of the Senator from New Hampshire of how it would work, bring us back to the core reason we have this bill before us.

Mr. President, every year 900,000 Americans get sick from tap water. In one city we had 104 people die. If that is not enough for us to support a decent and enforceable law, I do not know

what else is. There is a minimum that our people should expect from us if we deserve to be here, that we are willing to stand up and be counted and ensure that the drinking water is safe. I would have to say that this bill is not doing that with a heavy hand. You can see that there is a whole new attitude on this Senate floor in relation to this bill. And there is absolutely an understanding that we have to be certain that local government and State government is not so weighed down with mandates that are not funded that they simply throw up their hands, and say, "We cannot do it anymore."

I have a great sympathy again for local government. But I have no sympathy—and let me state very, very clearly—for those in office who would refuse to ensure the people that their drinking water is safe, because if there is any job we have as elected officials, whether local, State, or Federal, it is to protect the health of our people. That is what it is about.

Let me give you an example. Under this amendment—and the Senator from Montana has posed a number of questions, and I am just going to make a comment. I have read this amendment. Let us say there is a county board of supervisors or a city council that runs a water system, or they could be a water board, and they have decided they do not think lead is dangerous. Now people come before them, and they have the National Academy of Sciences report, they have physicians, but they decide that in their philosophy, this is not a problem. So they decide they are not going to regulate the amount of lead in the water supply. And children are being born brain damaged. We know that happens.

Under this amendment, you could hide behind unfunded mandates and say, gee, it is not that we philosophically oppose it, but we did not really get all the funding, and they look at the record of this conversation here, and it is a little unclear, so they hire a lawyer, and it is 10 years down the road, and kids are drinking this water. Of course, I think the parents would probably not allow them to drink the water. They would buy bottled water, or they might move to another community. That is the effect of this type of an amendment.

So I say, Mr. President, again, when we have the chairman and the ranking member standing up here and saying, look, they understand the problem that the Senator from New Hampshire has raised, that absolutely we have to be mindful; but this act is mindful of the issues of unfunded mandates and underfunded mandates. If we gut the enforceability of our Government here, this bill might as well not even be here. I, frankly, would understand it if both of our leaders on the committee—which is called, by the way, the Environment and Public Works Committee—withdrew the bill, because it would not have any means of enforcing.

I will close by reading the words of the amendment.

The Administrator may not commence a penalty assessment proceeding under this subsection against a political subdivision, and any pending penalty or penalty assessment or collection proceeding under this subsection against a political subdivision shall be waived——

In other words, there will be no assessment, there will be no fine, there will be no enforcement.

if the noncompliance of the subdivision that is the subject of the penalty or proceeding results from an unfunded Federal mandate.

So it is a fancy way of saying we want a little fig leaf that we can hide behind, so that we have an excuse not to make sure that the children are drinking safe water, that pregnant women are drinking safe water, that the frail elderly are drinking safe water, that all of us can be certain that we are drinking safe water.

Mr. President, I think I have been as clear as I can be. I strongly oppose this amendment, and I hope that our colleagues will stand up and be counted and support our chairman and ranking member.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I thank the Senator from California for that strong statement.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I must respond briefly to the Senator from California, because I believe it is a bit unusual for those who are not actually drinking the water to expect that they are going to have even a higher level of concern about the water than those who do drink it. I mean that is essentially the tenor of the argument, which is that the elected officials in—wherever it was—or the county commissioner group, or water commissioner group, is going to somehow turn its back on not only the community that it lives in, but its own good health, but that we here in Washington are going to know how to take care of it better for them. Now, that may be. That situation might occur. That hypothetically is a possibility. I suppose that is true, but it is not a likelihood.

Most people, when they are elected to public office, are elected because they conscientiously wish to improve their community, and if they know something is wrong with the water, they are going to try to do something about it primarily out of their own concern. I really think that to raise issues like pregnant women and lead in the water is to use hyperbole that is not relevant to this amendment, which is not really a gutting amendment, as the Senator characterized it.

It is a simple amendment that says, listen, if you do not fund it, you do not fine until you do fund it. And it is reasonable that you are going to be funding all of this. On the chairman's description of the way this bill works, that is going to occur. So this amendment may never come into play. But we should at least have the fairness at the local level to say that until we can fund it, we are not going to fine you or hit you with that double shot.

I yield back my time, and I suggest to the manager of the bill that if we can come to a time certain, we can bring it to a vote.

Mr. BAUCUS. Mr. President, I understand there is at least one Senator coming to the floor wishing to speak against this amendment. He is on his way. It is only fair and appropriate to wait until he arrives.

Before he arrives, however, I do think it is important to point out that this is a gutting amendment. Why do I say that? I say that because, first of all, there are not very many EPA inspectors. The enforcement personnel are pretty thin, and there are not going to be a lot of cases when EPA is coming into a community or the U.S. attorney's office, or whatever, on an enforcement action. We know that in the real world 99 percent of the time whenever there is a difference between, say, a potential law enforcement officer and, in this case, a community, things get worked out; they get resolved in one way or another, and the actual action is not really filed.

In those few instances where a community, for some reason, whatever reason, decides it does not want to comply with the standard—and there could be all kinds of reasons—and in those few instances where it decides it does not want to comply with a Federal standard, essentially, the EPA is precluded from enforcing it. Why? Because as I read this amendment, that community, subdivision, could say, well, there is not a total funding from Uncle Sam for this requirement; they are 1 penny short. Therefore, no enforcement action, none, zero. One penny short.

How easily can a community find that it is 1 penny short? I submit pretty easily. There are all kinds of ways that attorneys are going to find ways to say, well, gee, there are dollars here for this, but not for that, because you did not include the indirect costs to this, or the administrative costs that we allocated for that. Our allocation says that the Federal requirement portion, the administrative cost, should be 10 percent, and you say it is less than 10 percent, but we say it is 10 percent. Litigate it. No enforcement action.

On the other hand, the Senator is saying, well 1 penny, that is still a funded mandate. One penny short is still a funded mandate. If the Senator is saying that, then the question is: What is a sufficient Federal funding?

Five percent short? Ten percent short? Who knows? That obviously raises a whole host of questions and even more litigation as to how much is enough. You cannot have it both ways. One penny short, which an attorney can find easily if he is worth his salt; or, gee, it is not substantially federally funded, and you get all these questions.

Therefore, this is a gutting amendment. This amendment sounds beguiling and seductive, but if you look at the real, practical effect—the practical effect is no Federal enforcement of Safe Drinking Water Act standards where communities do not want to comply. That is what this amendment does.

It is for those reasons and for the very simple reason that this is not a proper amendment. People want to be sure that the water they drink is pretty safe. There may be a reason why a community does not want to meet a standard. It has happened. There are cases where that happens.

In a lot of these cases, the communities, frankly, want Uncle Sam to tell them to meet this standard because they can point the finger and blame Uncle Sam, or Washington, DC, or some regional office that they themselves do not have to bear the brunt of raising the standards and get the job done.

Most communities, I am sure, want to do a good job. Most communities want safe drinking water. They all want safe drinking water. For some reason—who knows?—they may not want to meet a standard.

I might say that the standards in this bill are not overbearing. The standards in this bill, particularly regarding small systems, are reduced. The monitoring requirements are reduced. The dollars that we have provided to install new technologies to address contaminants are increased. There are more Federal dollars, many more Federal dollars.

I remind Senators to look at the chart behind me. It is basically a fourteenfold increase, 14 times more, plus more flexibility. It was really more than this chart indicates, because Governors can transfer dollars from the clean water revolving fund to the safe drinking water revolving fund to meet system needs.

To sum up, I might say that this bill, is a good balance. It is a good balance between requirements, on the one hand, and reducing excessive burdens, on the other.

This amendment dramatically upsets that balance. It does, I think, effectively prevent the United States from enforcing very reasonable provisions in the Safe Drinking Water Act which, in those communities, for one reason or another, do not want to comply, jeopardize the safety and the cleanliness of their water.

I just think that it is not a provision; it is not an amendment that we in the U.S. Senate want to enact into law.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, if we are going to get into the issue of hyperbole, because this appears to be the movement of this debate, let me simply point out all those folks who are listening in on Senators, everyone who has sponsored an unfunded mandates bill—and there is a majority in this body that has done exactly that—if you cannot vote for this very small toe-in-the-water type of an approach, this miniature movement, this baby step on the issue of unfunded mandates, then you really are going to have a lot of trouble going back to your States, going back to your towns, going back to those town meetings and explaining to the local officials when they ask you why do we constantly get these mandates, why do you tell us what to do with our taxes when we have other needs in our communities, why is it that when we need more police and we need to pay our teachers more we have to spend the money on something you told us to do from Washington that you are not willing to fund, you are going to have a lot of trouble saying to those folks: "I am against unfunded mandates. I just was not able to vote for this little itsy-bitsy idea that came through the Senate on the drinking water bill."

So we are going to go to hyperbole that this is a gutting amendment, which it certainly is not for all the reasons which we outlined on this floor for the last hour and a half, that you have to deal with the fact that this amendment is really a very tentative attempt to address the issue in a fair way so the communities are not hit twice, first with the unfunded mandate and then with a fine.

But if we are going to start using hyperbole, then I think people better look themselves in the mirror in this body and say why do I sponsor the unfunded mandates bill and why do I when I go back to my district and talk about how opposed I am to unfunded mandates when I am not even willing to vote for this one little simple idea, that small step on a bill which we already had outlined to us on numerous occasions is not an unfunded mandate anyway.

It has no impact. It has virtually no compliance activity involved in it. So clearly it is not going to be affected by this abatement of the fine.

The maximum fine collected was $70,000 only under this bill. So that is the maximum ever to get abated.

So why are we so exercised about it. I do not know, because quite honestly this is not that significant a step on the issue which is the core issue which is how we get to unfunded mandates. As long as Congress continues to pass these unfunded mandates, we will continue to pervert the relationship between the Federal, the State, and the local governments in this country. We will continue to undermine the confidence of local community leaders in our willingness to stand behind our words.

That is the bigger issue of unfunded mandates which really has not been raised in this debate by me until this point but which I guess it has to be raised at this time because that is what the debate has become, the debate of hyperbole.

So ask yourself if you are not willing to take this little step forward do not go back to towns and cities to the next town meetings or next Kiwanis Club or Rotary meeting or next Chamber of Commerce meeting or next community service meeting and when the question is asked about what about this unfunded mandate give a lecture on how much you are opposed to it because, believe me, you cannot be if you vote against this amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this amendment essentially creates a false choice. This amendment basically says either you are for funding the mandates or you are for sufficient Federal enforcement to the exclusion of the other but not for both, which is a false choice.

Obviously, we in this U.S. Senate want to fund the mandates and we want sufficient enforcement of the provisions. Obviously, we want both. Obviously, the solution is to deal with those enforcement issues first and enforcement in the best, most reasonable way; second, deal with the mandates in the best, most reasonable way but not have a 100-percent linkage between the two. The 100-percent linkage in this amendment creates a false choice. It is either black or white. It is all or nothing.

This amendment creates an all-or-nothing, very artificial, very constrained situation. Either we are for totally funding the mandates under this amendment or if we are not for totality in every case under this amendment we are not for Federal law enforcement.

I do not think that is where the Senate wants to be. I do not think that is practically what the Senator from New Hampshire really wants either.

I am confident that the Senator from New Hampshire would like to have these so-called mandates funded as well as possible, close to 100 percent as possible. I think the Senator would also like to have good, sufficient Federal law enforcement as reasonable as possible. I am quite certain that the Senator from New Hampshire is not saying no Federal law enforcement whatsoever if there is not a total 100 percent full funding of this requirement. I do not think he really means

that. I dare say I do not think the people of New Hampshire really mean that either or want that.

I think that the better way to deal with the question on the one hand of funding the mandates as in the committee chart behind me demonstrates that we can do better, we will work to do better over the months and years ahead and also we want to deal with the important level of law enforcement, but we do not want a 100 percent either or linkage where it is either all one or all the other but not some reasonable amount of both.

The effect of this amendment is all or nothing. We do not want all or nothing in the United States. We want kind of a reasonable level of both. That is what we want. I think that once we focus on that all or nothing which is not the will, I am sure of the Senate, we will realize let us not adopt this amendment but let us deal with the funding question responsibly and properly and also deal with the enforcement.

I note that the Senator from Ohio, the chairman of the Governmental Affairs Committee, is now in the Chamber, who worked hard on this question of unfounded mandates.

I yield the floor.

Mr. CHAFEE. I wonder, Mr. President, if we could have some kind of an understanding after the Senator from Ohio speaks. Would it be the floor manager's judgment that we stack the amendment of the Senator from New Hampshire and get on with the Senator from North Carolina? I think there are going to be several other amendments after him. As I understand, that is what the hope is.

Is that agreeable with the Senator from New Hampshire?

Mr. BAUCUS. I say it is better to dispose of this amendment as soon as we finish debating. I do not see any reason for postponing the actual vote.

Mr. President, I yield the floor.

Perhaps, after the Senator from Ohio finishes his statement, we will come pretty close to wrapping up this debate. It is about 20 before 5 now. Maybe around 5 o'clock, I would contemplate a vote on this amendment, unless there is other intervening business.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Thank you, Mr. President.

Mr. President, the Senator from New Hampshire brings up a very, very important problem that we are in the process of addressing in the Governmental Affairs Committee.

This has been a subject that has been coming up increasingly over the last 3, maybe 4, years. It is a problem of when the Federal Government mandates something that costs the States in either enforcement or in procedures or what they have to do and it becomes very expensive.

Now you pile one of these requirements on top of another, starting way back several decades ago, and pretty soon the States are really up against it, as far as being able to provide the funds to do what has to be done.

I might add that this is one of the results of the so-called revolution we had in the difference in Federal-State relationships beginning back in the early 1980's, the so-called Reagan revolution. The idea was, if things were worth doing, we will send them back to the States and States will fund them if they are worth doing and we will get out of some of this business of the Federal Government requiring things of the States. That was all well and good, except we have the same requirements but not the funding from the Federal level to cover all these things, and back in those days we did cover a higher percentage than we do now.

But, regardless of that political background, we have unfunded mandates as a requirement and it really is hitting the States and local communities hard, very, very hard.

So I am complimentary to the Senator from New Hampshire for bringing it up, but I would submit that, rather than having something like this brought up on every piece of legislation that comes up—and we could do that—the way to solve this is the way we are going at it in the Governmental Affairs Committee.

Let me tell you what we have done. We have some eight bills before the committee now, including one by Senator GREGG, the Senator from New Hampshire, who is a sponsor of this amendment. We started last fall addressing this particular problem and we have eight bills in committee. We had a hearing last November 3, at which Senator GREGG testified on one of the eight bills. Other Members of the Senate and Members of the House also testified before the committee.

What we have been trying to do is work out a compromise position that would work for everyone. I think we are pretty well along on that.

Senator KEMPTHORNE has what was one of the more drastic proposals that just cut off everything, period; and that is if there was any cost at all. That is one extreme. And that would mean, even technically, I suppose, even if we asked for a report to come in and it required postage, that would be an unfunded Federal mandate. I do not think anyone wanted to take it that far, of course.

But, nevertheless, we have been having hearings on this. We had one last fall. We had one hearing on April 28 of this year. Representatives of the U.S. Conference of Mayors, the National Association of Counties, the National Governors Association, the National League of Cities, the U.S. Conference of State Legislatures, and Democratic and Republican elected officials have all testified, including several Senators, at these hearings.

We have been working with Senator KEMPTHORNE and with the administration. Senator ROTH, the ranking minority member of the committee, and I have worked with them. We are in the process of working out comprehensive mandate reform legislation. We have that pretty well reasonably worked out. We are planning our markup on it, as a matter of fact, on May 26, just next week.

There have been good faith negotiations underway with Senator KEMPTHORNE and others and I feel substantial, very substantial, progress has been made. We have had discussions and negotiations.

It seems to me that the way to solve this is by a comprehensive piece of legislation that we are about to mark up next week. Once that is done, we will bring it to the floor as fast as possible. I hope that it will cover this problem to the satisfaction not only of Members of this body, but also to all of those organizations that I mentioned.

It is a real problem. It is one that I think the Senator from New Hampshire is absolutely correct in bringing up and keeping attention focused on this particular issue, because it is a very major problem.

The States are out of money and do not feel that they can put taxes up in some of these areas where the Federal Government puts new requirements on them but does not follow with the money to carry out those programs. We heard over and over again in our committee during our last hearing with all of these different organizations that I mentioned, "No money, no mandates." "No money, no mandates." I, basically, agree with that. I am very sympathetic to that, but it can be carried to extremes.

That would just stop Government in its tracks, if we pass some of the legislation that has been proposed, not particularly this legislation today. But some of the other proposals, if carried out right to the letter of the way they are written, it would literally stop Federal Government in its tracks, even for good programs that the States want. And so, I think we have to be careful that we do not do more harm than good.

What I would hope is that Senator GREGG would either withdraw this amendment or, if we have a vote on it, I urge my colleagues to vote against it, with the idea that we are coming up with legislation that I think will be satisfactory and I think most of the Members of this body will approve. We should have that marked up and ready to come to the floor after our markup that is scheduled on May 26.

I hate to oppose this amendment, because I know that we do have to deal with the unfunded mandate problem. We are not trying to put that off. I am not trying to delay it. I think, through the years, we should have moved ahead

more rapidly in dealing with this, because it has been a problem that has been growing very, very rapidly in our communities and in our States.

So we want to deal with it, but I want to deal with it by bringing out legislation that applies to unfunded mandates across the board.

With that, I hate to oppose this amendment, but I will oppose it and urge my colleagues to vote against it if it is brought up to a vote. It is something we do have to deal with. I want to deal with it in a better way that will deal with the whole unfunded mandate problem.

I yield the floor.

Mr. GREGG. Are we ready to vote?

Mr. BAUCUS. Soon.

Mr. President, due to business of other Senators at this moment, I think it would be inappropriate to vote on this amendment precisely at this time.

I, therefore, ask unanimous consent that a vote on or in relation to the Gregg amendment occur at 5:30 today, and that no second-degree amendments be in order prior to disposition of this amendment numbered 1712.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, it is my understanding that Senator FAIRCLOTH will go ahead now and it may well be that he will have his amendment concluded with by 5:30.

Suppose he is not through, then what happens? He is just interrupted?

Mr. BAUCUS. That is correct.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that, when the vote occurs on the Gregg amendment, I be allowed to move to table and the yeas and nays be ordered.

I withdraw that request.

Mr. President, I suggested absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I think we have pretty well wrapped up debate on the amendment offered by the Senator from New Hampshire.

Before turning to the next amendment, I ask unanimous consent to have a letter printed in the RECORD. It is a letter from Bob Perciasepe, the Assistant Administrator of the EPA. Essentially the letter states that he, Mr. Perciasepe, Assistant Administrator for Water in the Environmental Protection Agency, is deeply concerned about the amendment offered by Senator GREGG. He says it would upset the careful balance the committee has drafted. It would severely hamper enforcement of the Safe Drinking Water Act and could bring progress on drinking water protection to a grinding halt. Drinking water systems across the country would no longer be held responsible for providing basic drinking water safeguards, such as protection against microbiological contaminants and lead.

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

U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF WATER

Washington, DC.

Hon. MAX BAUCUS,

Chairman, Committee on the Environment and Public Works, U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: The Safe Drinking Water Act bill, S. 2019, which passed the Committee on the Environment and Public Works by a unanimous vote, contain much needed reforms to reduce regulatory burdens and increase flexibility while carefully balancing essential public health protections.

I am deeply concerned by an amendment offered by Senator Gregg that would upset the careful balance that you and the Committee have crafted. The amendment would severely hamper enforcement of the Safe Drinking Water Act and could bring progress in drinking water protection to a grinding halt. Drinking water systems across the country would no longer be held responsible for providing basic drinking water safeguards, such as protection against microbiological contaminants and lead.

According to industry data, 74 percent of water consumers are willing to pay higher water bills in order to receive water above federal standards. This amendment could undercut the substantial progress that has been made to meet the goal of safe drinking water for all Americans. I strongly urge you to oppose the amendment.

Sincerely,

ROBERT PERCIASEPE,
Assistant Administrator.

AMENDMENT NO. 1714

(Purpose: To strike the provisions relating to labor standards)

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, I send to the desk an amendment to the safe drinking water bill that will strike the Davis-Bacon prevailing wage requirements for construction of drinking water treatment plants and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. FAIRCLOTH] for himself, Mr. CRAIG, Mr. NICKLES, Mr. BROWN, Mr. SMITH, Mr. GRASSLEY, Mr. GRAMM, Mr. HELMS, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, and Mr. KEMPTHORNE proposes an amendment numbered 1714.

The amendment is as follows:

Beginning on page 22, strike line 12 and all that follows through page 23, line 8.

On page 23, line 10, strike "1478" and insert "1477".

On page 23, line 23, strike "1479" and insert "1478".

On page 118, line 11, strike "1479" and insert "1478".

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I have spent the last 46 years in the private sector. I have met a payroll every Friday for every week of those years and with a little luck will meet one this Friday. It is unfortunate for the American people that there are not more representatives who know what it means to run a business. If there were, we would have repealed the union-inspired mandates like Davis-Bacon long ago.

It is time we agreed to an amendment like the one before us. We need to send the cities and towns a clear message that the Congress is no longer going to burden them with unfunded Federal mandates like Davis-Bacon. And certainly it is time to let the taxpayers know that Congress is no longer willing to waste their money on union mandates.

Davis-Bacon prevailing wage requirements are a drain on the taxpayer, the private sector, the job market, the towns and, in this bill, the environment. The only beneficiaries of Davis-Bacon are Big Labor and its allies in the Congress. Obviously, Federal prevailing wage laws are a bad idea whose time will never come.

Do not misunderstand. As any union boss will tell you, Davis-Bacon is a successful labor law. It does exactly what it is supposed to do; it drives labor costs above the market price and excludes low-skilled, entry-level workers from the job market and eliminates any potential for apprentice training. It is big labor's best friend. It is the taxpayers' worst enemy.

Let us take a look at who gains and who loses by continuing to mandate wages on Federal projects. First, the taxpayer loses. Most of us are familiar with the studies that, according to the GAO, as anyone who has ever run a construction company, as I have, knows, the cost of Federal-funded construction is driven up by anywhere from 5 to 15 percent as a result of Davis-Bacon.

The effect is even worse in rural areas where Davis-Bacon drives the cost up by 26 to 35 percent.

The Congressional Budget Office has prepared the most conservative estimate available for the premium the taxpayers pay because of Davis-Bacon. They say the costs rise 1.5 percent because of the act. But from that very low and conservative estimate, it is determined that the taxpayer is expected to fork over an additional $3.2 billion over the next 5 years because of Davis-Bacon. And in this bill alone, we would save $84 million, and that is also a low ball estimate.

Mr. President, we could argue about the minutiae of studies well into the night, but no one in this Chamber will

argue that Davis-Bacon is saving the taxpayers any money. It drives up cost, reduces competition, pure and simple. That is what it is designed to do, and it does not improve the quality of the finished product.

By mandating that federally funded construction projects pay the prevailing or union wage—and they will always be able to identify as the prevailing wage—we drive up the labor costs to the taxpayers—the labor cost—by 50 percent on federally funded projects, and that does not even take into account the massive amounts of paperwork, the bureaucracy created in the Department of Labor to administer and determine prevailing wages for the thousands of Federal contracts let each year. It is estimated that over 6 percent of paperwork generated at the Department of Labor is a result of Davis-Bacon—6 percent of the paperwork coming out of the Department of Labor. And every bit of it is a useless, bureaucratic waste of time and money.

Mr. President, it is impossible for the Department of Labor or anyone in Government, for that matter, to accurately determine what someone's proper wage is. Only the private sector and the free market can determine what is a proper wage.

Mr. BAUCUS. Might I interrupt the Senator at an appropriate point to get a consent agreement? I do not want to break into the flow of the Senator's presentation.

Mr. FAIRCLOTH. Excuse me.

Mr. BAUCUS. I ask what would be a proper time for me to put a separate request to the Senate allocating time?

Mr. FAIRCLOTH. I am almost through. It will be all right to divide the time.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the time between now and 5:30 p.m. be equally divided in the usual form for debate on the Faircloth amendment; and that, following disposition of Senator GREGG's amendment, the Senate vote on or in relation to Senator FAIRCLOTH's amendment No. 1714; and that no other amendments be in order prior to disposition of Senator FAIRCLOTH's amendment.

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

Mr. BAUCUS. I thank the Senator.

Mr. FAIRCLOTH. Mr. President, the private sector and the free market are the only factors that can determine what is a proper wage. Governments around the world have discovered the futility and waste associated with manipulating wages and markets. It simply has never worked. Yet, the U.S. Congress today and every year since 1931 has mandated that the Department of Labor somehow determine the proper wage that should be paid for 300 different job categories in 20,000 different locations around the country. Every bricklayer, backhoe operator, carpenter, electrician and post-hole digger has to get a correct Federal unionized wage.

This wage is to be determined not by the real market but by the bureaucrats in Washington. That, Mr. President, is an impossible task. Everyone knows the Labor Department cannot possibly do the job, and for the past 63 years, the prevailing wage has been one thing and one thing only: the union wage. That is why in places like Cody, WY, they use a Denver pay scale, and in Poplar Bluff, MO, they use St. Louis union pay scales. This goes on all over the country.

Anyone with a drop of common sense knows there is not any connection between the selected wage and the true local market wage. The local market is really of no consequence. The union wage simply prevails and the Davis-Bacon wage goes on.

The second loser is the private sector. The cost to the private sector in lost competition is enormous. I was in the construction business for many years, and I can tell you firsthand the consequence of the Federal Government mandating wage rates.

We have created two separate construction markets in this country. The Federal market, whose foundation is Davis-Bacon wage mandates, is a maze of union-inspired rules and regulations. To compete in this market, you and your workers have to play by the union rules or, even worse, you can very simply just sign your company away to union contracts in the first place. And we all know what that means: Changing a ditch digger's rate to that of a truck driver because he drove a truck across a parking lot, or an electrician scale because he threaded a piece of wire. Those are the rules that Davis-Bacon brings to the construction industry.

That kind of Government-created private sector bureaucracy has limited the Federal construction market, for the most part, to a small group of union-controlled contractors who specialize in Davis-Bacon mandates. They are not competitive enough to operate in the free enterprise system. They do nothing but Government work under the Davis-Bacon rules.

Mr. President, Davis-Bacon mandates will cost the private sector $100 million this year in paperwork alone. Eleven million payroll reports, requiring 5½ million man-hours, will be submitted by employers to the Department of Labor in order to conform to Davis-Bacon requirements—11 million payroll reports.

The requirements that payrolls be met weekly rather than biweekly, as is often the practice in the construction industry, is enough to discourage any smaller firm from competing for Federal contracts. Just a single payroll requirement is symbolic of the arrogance of Davis-Bacon and the bureaucracy and the unions that support it.

It is not Congress' business to mandate the private sector's payroll changes that are effective for them only because the union bosses decide they would like it differently. I hope Senators who support Davis-Bacon will put themselves in the shoes of employers who are willing to hire entry-level workers but can find no economic rationale in the face of Davis-Bacon. I think there is a simple reason and an unfortunate reason why they cannot. The vast majority of Senators' hiring decisions have been limited to staffers, bureaucrats and law clerks. They simply have no firsthand knowledge of the private sector and the counterproductive effects of the rules and regulations that this Congress has passed over the last 30 years and longer.

The final loser is the cities and towns who are trying to clean up their drinking water. This bill currently marks an unprecedented expansion of the privileged wage laws of Davis-Bacon. We usually think of Davis-Bacon in connection with Federal building projects, but this bill is about local projects and it tells cities and towns that, if they take a penny of money from the State revolving fund, they must follow Davis-Bacon and Federal wage laws. That becomes one more mandate upon the cities and counties of this country, an unfunded one, as most of the Federal mandates are.

If we want to get the whole purpose of the bill, if we really want cleaner water, then we are going at it the wrong way. We need cheaper costs, and eliminating Davis-Bacon would be one way to cheapen the cost.

Mr. President, the Davis-Bacon issue has been fought many times in the Senate and will, unfortunately, be fought many times again, and I am well aware of that. But Senators have an opportunity here to prevent Davis-Bacon from being forced upon what is essentially a State program. This bill makes available $5.6 billion for States to loan out as they see fit, with a 20-percent match into this revolving fund. It is not the business of Congress to say that States—and that is what they are—that all of this must be constructed using union funds. I believe the States and cities have had enough of unfunded mandates, and I think they have had enough of Davis-Bacon, particularly those States without prevailing wage laws. It is one more encroachment on the ability of governments outside of Washington to decide such things for themselves. They have lost the decisionmaking process. It is dictated to them by a Government bureaucracy from Washington.

It is another power grab by Big Labor. It is one more arrogant attempt by Congress to manipulate the private sector for its own benefit and reasons.

I propose that Senators who may be undecided this time do the right thing.

Let us get the Davis-Bacon monkey off the back of local governments and the private sector. Vote for this amendment and your State will get 30 percent more water treatment construction for its money in rural areas. Vote against it and you are saying that Big Labor is more important to you, more a factor than is clean drinking water for this Nation.

Mr. CRAIG. Mr. President, I rise in support of the Faircloth amendment to S. 2019, the Safe Drinking Water Act Amendments.

As reported, section 3 of the bill would add a part G—sections 1471–1479—to the Safe Drinking Water Act, requiring the EPA Administrator to make grants to States for capitalizing State revolving loan funds [SRF's] to finance facilities for the treatment of drinking water. This new grant program is modeled after a similar one created in the Clean Water Act.

Unfortunately, the new section 1477(a) in the bill would apply the requirements of the Davis-Bacon Act of 1931 to the SRF's. Because Davis-Bacon directly applies only to public works and public buildings, it would not apply to SRF's without such an explicit extension.

Davis-Bacon should not apply to SRF's; it would amount to another Federal mandate on the States:

Davis-Bacon is a standard for Federal procurement contracts for construction—it shouldn't be imposed on State and local decisionmaking about State and local needs and priorities.

The Davis-Bacon provision in S. 2019 is another example of the Federal Government giving with one hand and taking away with the other. The bill says that we'll help pay for some of the capital costs of Federal drinking water mandates. But then we add Davis-Bacon to make capital improvements more expensive, more regulated, and more paperwork-intensive.

Because this bill applies Davis-Bacon to projects with any Federal SRF money, it also applies Davis-Bacon to the matching funds raised by State, local, and private sources. In other words, the Federal Government would be dictating to States and others how they should spend their own money. This simply isn't fair.

This provision also provides us with a case of the tail wagging the dog. Even though the Federal share of any SRF project may be as great as 80 percent, States also may stretch that money out among more projects. In some cases, Davis-Bacon could wind up applying to projects with a very small Federal component.

The new section 1477 created by this bill includes a disturbing, unprecedented expansion of Davis-Bacon to the proceeds of loan repayments:

The purpose of this bill is to authorize seed money to set up revolving loan funds—and I stress the word "revolving." The loans are repaid and funds are reloaned. The current practice as in the Clean Water Act, has been to apply Davis-Bacon only to the initial pool of money receiving a Federal contribution. If Davis-Bacon has to apply, this should be the case—it should come attached directly and solely to Federal money.

Over time, revolving funds become State money even more obviously. The Federal taint is less and less.

However, this bill could apply Davis-Bacon to subsequent loans made out of revolving funds 5, 10, and 20 years after the Federal Government has stopped contributing any funds.

Revolving funds are administered by State agencies, are matched with State funds, and loaned out based on State and local assessments of need. If this is the best way to characterize SRF's at their creation, it is a much truer description still after funds are repaid and reloaned.

Another obvious indicator of the nature of SRF's as State funds is written right into this bill: States would be allowed to decide whether or not to forgive loans to disadvantaged communities. It doesn't make sense to apply a Federal procurement standard like Davis-Bacon to a subsequent loan that was made possible solely because the State collected loan repayment it could have forgiven, instead.

Applying Davis-Bacon to SRF's is inconsistent with the stated intent of the Davis-Bacon Act itself:

Davis-Bacon supporters always assert that the purpose of the act—and this is consistent with legislative history—is to protect local economies and markets from disruption by big Federal projects.

Applying the act to SRF's raises a logical contradiction: This bill would apply a Federal procurement rule to State and local projects, ignoring the needs, priorities, and standards of the States and localities, in the name of "protecting" those States and localities from Federal interference.

Another, little noticed, local control issue: Subsection (b) of the Davis-Bacon provision would allow the Labor Department to override the judgments of EPA and State and local officials on when to apply Davis-Bacon:

Subsection (b) of the new section 1477 would allow the Department of Labor to override determinations made by the EPA Administrator and State or local officials as to whether the nature of the work being performed or the nature of a contractual relationship on an SRF project was such that Davis-Bacon should not apply. This is a departure from the traditional legislative approach in, and division of responsibility under, the Davis-Bacon related acts.

There is no justification for allowing Department of Labor bureaucrats who have no practical experience in safe drinking water programs, and who know nothing about local economic circumstances, to impose their judgment on EPA and local officials who are more qualified and better situated to judge the nature and scope of a contract on a project funded out of an SRF.

Proponents of Davis-Bacon expansion have been pursuing a strategy of inflicting death by a thousand small cuts. Subsection (b) is another example; it is a provision that has no rationale as a piecemeal expansion except for the sake of expansion itself.

There actually is an interesting history behind this particular issue. In the mid-1980's, DOL actually tried to apply Davis-Bacon to private construction of a shopping center in Muskogie, OK. The city, in a private-public partnership, had used a Federal grant to pay for part of the land acquisition. In essence, the Department of Housing and Urban Development said that Davis-Bacon applied only to federally financed construction in this and similar cases. DOL argued that it had the authority to apply Davis-Bacon to private construction if Federal funds had helped pay for an indirectly related activity. The Justice Department ruled in favor of HUD. Subsection (b) attempts to overturn that ruling for drinking water SRF's.

As an example of how such a reversal would affect communities under this bill, let's say a private developer of an industrial park or planned community agrees to construct a drinking water treatment facility; and the local government uses SRF funds for technical assistance, or maybe partial land acquisition. Normally, EPA and the State and locality would determine whether Federal money was directly related to construction and whether the nature of the work was more properly considered private, local-public, or federally assisted. Subsection (b) is intended to give bureaucrats, remote from the actual community and its SRF project, the power to superimpose their opinions as to when Davis-Bacon should apply.

COSTS

The bill authorizes $600 million in fiscal year 1994 and $1 billion annually over fiscal years 1995–2000, for a total of $6.6 billion.

Davis-Bacon would escalate total construction costs by at least 1.5 percent, or $99 million of the total Federal contribution if that much is appropriated. In other words, the Federal Government would get $99 million less worth of safe water capital improvements—less safe drinking water—for its money.

The committee report estimates that total capital costs to comply with Federal standards could be $8 billion or more. Of this total, the Davis-Bacon cost premium would amount to at least $120 million—including at least $21 mil-

lion in added costs imposed on States and localities.

I want to point out that 1.5 percent is what CBO estimates Davis-Bacon adds to construction costs, as a national average, above what they would be if the market prevailed.

The local impacts of Davis-Bacon, however, vary dramatically.

The General Accounting Office, the Wharton School, the Grace Commission, and others have found that Davis-Bacon commonly adds 5 to 15 percent to construction costs.

A 1982 University of Oregon study found that Davis-Bacon increases costs in rural areas by as much as 26 to 38 percent.

It's ironic and unfortunate: Applying Davis-Bacon to the safe drinking water SRF's means that those communities already least able to afford Federal mandates in the first place would get socked with the largest additional, federally imposed costs in complying with those mandates.

Davis-Bacon restricts competition and discriminates against small and minority-owned businesses:

Small and minority contractors already avoid Federal construction contracts like the plague because of onerous Davis-Bacon requirements. This bill would ensure that the same contractors are also shut out of State and local drinking water projects.

Again, this is ironic. Members of Congress always talk about helping small and minority employers—the very employers who create virtually all new jobs and training opportunities for new and disadvantaged workers—but by applying Davis-Bacon this bill would slam another door in their faces.

I remind my colleagues: The National Association of Minority Contractors has said that Davis-Bacon is "poison" to minority contractors and their employees, and the U.S. Hispanic Chamber of Commerce has called for outright repeal of the act.

I have spoken before on this floor about the lawsuit now pending, by several minority contractors, community associations, and the Institute for Justice, to declare Davis-Bacon unconstitutional on the basis of racial discrimination. I await with great interest the developments in that case. In the meanwhile, I agree that the 1931 CONGRESSIONAL RECORD showed obvious discriminatory intent when Davis-Bacon was enacted and that history has shown discriminatory effects.

For these reasons, and for those I offered earlier, I urge my colleagues to vote for the Faircloth amendment. We should not be expanding Davis-Bacon coverage still further.

If the Faircloth amendment is not adopted, then I urge that Senators adopt the amendment by Senator GREGG of New Hampshire, which would restore the status quo that Davis-Bacon not apply to the proceeds of loan repayments. But I hope that is not necessary and that we adopt the Faircloth amendment. If neither of those amendments is adopted, I understand that Senator SIMPSON of Wyoming has an amendment to allow States to exempt disadvantaged communities from Davis-Bacon, and I will support that effort.

Mr. President, I ask unanimous consent that I be allowed to insert additional materials into the RECORD with my statement, including a letter from the National Association of Minority Contractors expressing their concern over and opposition to the Davis-Bacon provisions in S. 1547, which has been replaced on the floor by S. 2019, and a letter from the Coalition To Reform Davis-Bacon, a broad-based national coalition.

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

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS,
Washington, DC, April 25, 1994.

U.S. Senate,
Washington, DC.

DEAR SENATOR: The National Association of Minority Contractors (NAMC) would like to draw your attention to an overbearing Davis-Bacon provision in the Safe Drinking Water Reauthorization Act (S. 1547), a bill which will soon be considered in the Senate. We urge you to oppose this provision on the grounds of its overly burdensome requirement on the states, as well as its heavily adverse impact on small and small disadvantaged businesses, and lower-skilled minority workers.

S. 1547 contains a provision which would expand Davis-Bacon coverage to all drinking water projects funded by the new state revolving loan fund (SRF) created in the bill. This Davis-Bacon provision of S. 1547 amounts to just one more unfunded federal mandate on the states. It would have a harsh impact on small and small disadvantaged businesses who would be virtually eliminated from competing on drinking water projects because of the heavy burden of Davis-Bacon. It would also have a negative impact on low-skilled workers seeking jobs on safe drinking water projects, but not qualifying for the excessive Davis-Bacon wage requirements.

Under the legislation, the federal government would contribute a total of $5.6 billion to the SRF through the year 2000. After 2000, the SRF would be capitalized solely by repayments of the loan by the states. The Davis-Bacon provision would apply the law's requirements not only for the first few years of the program, when the federal government is making a financial contribution, but also when the SRF is fully capitalized with state funds. The language contained in S. 1547 is a significant unprecedented expansion of the Davis-Bacon Act which eventually places the full burden of the associated inflated costs on the states.

The Davis-Bacon Act is estimated to raise the cost of federal construction by an average of 5–15%. The inflated costs in rural areas are estimated at 26–38%. The Davis-Bacon Act currently impacts states and localities because it is often applied when the federal government makes only a nominal contribution and the project is primarily state, locally or privately funded. The inflated costs and other problems associated with Davis-Bacon can virtually nullify the federal government's subsidy. The language in S. 1547 imposes this type of burden on the states, but also goes a giant step further by applying Davis-Bacon indefinitely—even when the SRF is capitalized solely with state funds.

S. 1547 purports to provide additional flexibility to the states. However, the Davis-Bacon provision in this legislation is entirely contrary to this intent. To date, eighteen states have chosen to either repeal their "little Davis-Bacon law" or have no prevailing wage statute at all. Rather than providing flexibility, S. 1547 as written imposes another unfunded federal mandate on states who have already made their choice on this issue. States who have repealed their prevailing wage law—including Alabama, Arizona, Colorado, Florida, Idaho, Kansas, Louisiana, New Hampshire and Utah—and states who have never had a prevailing wage law—including Georgia, Iowa, Mississippi, North Carolina, North Dakota, South Dakota, Vermont and Virginia—clearly do not want the federal government mandating that they must pay these unnecessarily inflated costs. It is important to note that states who do have a prevailing wage statue are already assured of having prevailing wages paid on projects funded under this program.

NAMC urges you to support the position that, with states and localities becoming increasingly financially strapped, the federal government should not mandate that they pay more than necessary for much-needed public construction. This position is not only good for the state governments, but also for small and small disadvantaged businesses seeking to do business under state contracts, and also for workers seeking jobs on state projects. We urge you to oppose the addition of the Davis-Bacon expansion provision to S. 1547, the Safe Drinking Water Authorization Act.

Sincerely,

SAMUEL A. CARRADINE, Jr.,
Executive Director.

COALITION TO REFORM THE DAVIS-BACON ACT,
April 11, 1994.

Hon. LARRY E. CRAIG,
U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG: The Senate is expected to begin debate on S. 1547, the Safe Drinking Water Reauthorization Act, as early as this week. The Coalition to Reform the Davis-Bacon Act is extremely concerned about the Davis-Bacon provision included in S. 1547, which would amount to an unfunded federal mandate on the states.

By including the requirements of the Davis-Bacon Act within S. 1547, you are mandating that states pay a significant amount more than necessary for construction projects under these programs. The Davis-Bacon Act unnecessarily raises the cost of Federal construction by an average of 5–15%, with costs in rural areas being inflated by as much as 26–38%. This is a needless waste of taxpayer dollars and thwarts the progress of additional projects that would be built. These figures do not take into account the burden that Davis-Bacon requirements impose on states and localities.

The federal Davis-Bacon law hurts states and localities because its requirements are imposed regardless of the amount of funds that the federal government brings to a project. For example, the federal government could offer a small amount of money for a primarily state, local or privately funded project, and the artificially inflated

Davis-Bacon wage rate would have to be paid to all workers on that job. Often times these increased costs virtually nullify the federal contribution. The language in S. 1547 would further burden states by applying Davis-Bacon requirements even when the federal government stops making its contribution and the SRF is solely state capitalized.

Eighteen states have seen fit to repeal their state prevailing wage statute or have no prevailing wage statute at all. The federal government should not impose Davis-Bacon requirements on financially strapped state and local governments, particularly when it is no longer financially involved.

The Coalition to Reform the Davis-Bacon Act strongly encourages you to delete this expansive language from S. 1547.

Sincerely,

THE COALITION TO REFORM THE DAVIS-BACON ACT.

MEMBERS—COALITION TO REFORM THE DAVIS-BACON ACT

Air Conditioning Contractors of America.
American Concrete Pipe Association.
American Farm Bureau.
American Portland Cement Alliance.
American Public Transit Association.
American Road and Transportation Builders Association.
Associated Builders and Contractors.
Associated General Contractors.
Brick Institute.
Citizens Against Government Waste.
Contract Services Association.
Council of State Community Development Agencies.
Fluor Corporation.
Independent Electrical Contractors, Inc.
Institute for Justice.
Labor Policy Association.
National Aggregates Association.
National Association of Counties.
National Association of Dredging Contractors.
National Association of Home Builders.
National Association of Manufacturers.
National Association of Minority Contractors.
National Center for Neighborhood Enterprise.
National Federation of Independent Business.
National Industrial Sand Association.
National League of Cities.
National Terrazzo & Mosaic Association.
National School Boards Association.
National Slag Association.
National Stone Association.
National Tax Limitation Committee.
National Taxpayers Union.
Printing Industries of America.
Pubic Service Research Council.
U.S. Chamber of Commerce.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania, [Mr. WOFFORD].

Mr. BAUCUS. Mr. President, I am about to yield time to the Senator from Pennsylvania and also the Senator from Massachusetts.

The amendment, I think, is the same one that was offered in committee, was considered by the committee, and rejected by the committee. It is the same amendment, and I urge the full Senate to also reject it. It is an issue that has been debated many times. Frankly, I think it would be highly improper for the Senate to adopt this amendment.

I will yield to the Senator from Pennsylvania—how much time?

Mr. WOFFORD. I will be within 2 minutes.

Mr. BAUCUS. I yield 2 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. WOFFORD. Mr. President, as the Senator from Montana, our chairman, has said, the Environment and Public Works Committee debated this provision and voted by an 11 to 6 margin to retain the Davis-Bacon provisions.

The points made with such strong conviction by the Senator from North Carolina have been disputed and, I believe, disproved by many studies and by many thoughtful students of this field.

Dr. John Dunlop, Labor Secretary during the Ford administration, has studied the impact of the Davis-Bacon Act on costs and found that the application of the act is neutral with respect to construction costs.

Before coming to the Senate, I was Pennsylvania's Secretary of Labor, an agency which administered the State's prevailing wage law. I have seen first hand how these labor protections assure fair wages prevailing in the locality of the work. They provide for apprenticeship training to create a new generation of skilled craftsmen. The men and women of the building trades, Mr. President, are taxpayers, and they have been building America. The Senate time and time again has supported the concept of prevailing wage, and I urge the defeat of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. I thank the Chair.

I rise in opposition to this motion to strike the Davis-Bacon protections for projects funded under the Safe Drinking Water Act.

There are a number of myths that are frequently circulated about the Davis-Bacon prevailing wage requirements.

Let me dispel some of the myths about Davis-Bacon.

One of these myths is that Davis-Bacon requires contractors to pay union wages on Federal construction projects. Davis-Bacon requires that prevailing wages of the community be paid on Federal construction projects. A 1986 study of the entire universe of Davis-Bacon decisions revealed that only 42.6 percent of all area wage decisions had prevailing rates that were union rates.

The same study found that almost 48 percent of all area wage decisions issued by the Department of Labor had nonunion wage rates as prevailing.

It also found with regard to project decisions, 23 percent of all decisions had union rates prevailing while 62 percent had nonunion rates prevailing.

Clearly, Davis-Bacon is not merely a facade to protect union wage rates.

Another of those myths is that construction workers are overpaid, and that the Davis-Bacon Act requires that they be paid inflated wages that unfairly enrich these workers at the expense of taxpayers.

This is simply untrue. The Davis-Bacon Act merely requires that construction workers on Federal projects be paid prevailing wage—that is the wage that is paid to the majority of workers doing similar work in the community.

Construction workers are not overpaid. In fact, in March 1994, the average hourly wage of a construction worker in this country was $14.42 an hour. Because construction workers work on a project-by-project basis, and are affected by weather and other conditions, the typical construction worker—even in the best of times—is likely to find work only about 1,400 to 1,600 hours a year. At the rate of $14.42 an hour, that typical construction worker produces annual earnings ranging from $20,188 to $23,072 a year.

This is hardly the kind of income that any family lives royally on.

And these are hardly the best of times for construction workers. In 1993 the unemployment rate among construction workers nationwide was a whopping 14.3 percent, and I know for a fact that in some construction locals in my own State of Massachusetts the unemployment rate in 1993 has been in excess of 17 percent.

Mr. President, what we are basically talking about is the wages of working men and women in the construction industry of this country. When you get right down to it, let us look at those who are participating in the Davis-Bacon Program, which effectively means that the wages are going to be the prevailing wages in that particular area where the project is going to be built.

Nationwide, the average construction worker is making $14.42 per hour, working between 1,400 and 1,600 hours a year. Construction workers only work on a project-by-project basis. Their hours are also affected because of weather. But, the typical construction worker nationwide, earns between $20,000 and $23,000 a year.

We are talking about men and women in this country who have a skill who are making between $20,000 and $23,000 a year. We are talking about roofers who make $12.79 an hour; carpenters who make $14.33 an hour, and plumbing, heating, and air conditioner workers who make $15.01 an hour. I do not understand why the Senator is against these working men and women who are prepared to work at any time they pos-

sibly can and still make only $20,000 a year. There are a lot of other inequities out here—people taking advantage of various kinds of projects and systems and the economy, who are making not only $20,000 but $100,000 or $1 million a year. But we are not talking about these people.

It is thee the working men and women we are talking about. Their unemployment—as a result of interest rates—is 14 percent nationwide; in my State, 17 percent. Many of these construction workers are not even making the $20,000 a year. So you can talk all you like about how we really ought to stand up for America, how we ought to stand up against the power of these working men and women. You are talking about hard-working men and women who are trying to deal with the economic problems they and their families are facing, whose real income has actually declined over the period of the last 10 years. And we are going to say this is striking the cause for justice in America?

Come on. What has the Senator got against working men and women making $20,000 a year? That is what this issue is about. I just hope that the Senator's amendment will be defeated.

We can end up with the shoddy workmanship and the overtime that is necessary for repair when we do not have trained individuals who are part of the construction trades. A January 27, 1994 article in the Wall Street Journal recently reported on the growing shortage of skilled construction workers. The article mentions increasing complaints about building quality and timeliness.

The protections of Davis-Bacon and the apprenticeship programs certified by the Department of Labor or a State agency recognized by the Department of Labor help to ensure that this country has an adequate skilled labor supply. They also ensure that projects built with Federal funds are quality projects with good workmanship.

I am just always amazed that some of our colleagues want to go after the backbone of America—the skilled men and women who are really building the infrastructure, the ones who are rebuilding the water systems which provide our families water, the ones making moderate, even minimal, amounts of money and trying to bring up a family in this country at the present time.

I hope that we are not going to turn our back on these individuals and say, well, we are not going to pay you. We are going to nickel and dime you. We want you to go out and work, but we are going to nickel and dime you and get your wages down even lower than they are now.

Mr. President, $14,800 a year is now a poverty wage for families of four. These workers deserve better than a poverty wage. It seems to me we ought to pay people a living wage—for them and their families.

So I hope that this amendment will be defeated, and I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time? Four minutes 35 seconds remain to the Senator from North Carolina.

Mr. FAIRCLOTH. I yield the time.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am pleased to support the amendment offered by my good friend from North Carolina, Senator FAIRCLOTH. His amendment would strike the ill-advised Davis-Bacon provisions from the Safe Drinking Water Act.

Most Americans are not aware of Davis-Bacon—but they should be. Davis-Bacon denies American taxpayers the right to get the best deal for their money. Davis-Bacon denies American taxpayers the benefits of marketplace competition. Congress—not the marketplace—not competition—sets the rate of pay for workers.

The result? Federal contract costs sky-rocket. Taxpayers are gouged. And now, if we defeat the Faircloth amendment, we will expand Davis-Bacon even further?

If the Faircloth amendment is defeated, Government contract costs will increase along with Government spending. Is the budget balanced? Have we conquered the deficit?

What is our objective with the Safe Drinking Water bill? Do we want money spent on protecting drinking water? Or do we want to throw a bone—a very expensive bone—to special interests?

If my colleagues defeat the Faircloth amendment, less money will go to safe drinking water. More money will go to labor.

The bill contributes $5.6 billion to a new State revolving loan fund. It is argued States are better suited to manage local safe drinking projects. But then we about-face and force costly Davis-Bacon requirements upon State contributions to the new revolving fund. The Federal Government imposes costly Davis-Bacon long after Federal funds are spent. Why? To promote safe drinking water?

My own State of Iowa has never had a prevailing wage law similar to Davis-Bacon. But unlike the Federal Government, Iowa has to balance its budget. It is required by Iowa's constitution. So, squandering taxpayer's money like the Federal Government does is not acceptable among many States like Iowa.

Therefore, I am confident that Iowa would oppose paying the inflated costs this unprecedented Federal mandate imposes.

This is both a Federal money grab and a Federal power grab. It steals more money from Federal and State taxpayers. And it steals the power from the State. This provision strips State and local officials of their powers.

States opposed to this expansion of Davis-Bacon could be ignored, snubbed, and overruled by the Secretary of Labor.

The Federal Government must not impose its will upon State funded programs. There is no justification for this power grab. Local officials, not Federal bureaucrats, are better-suited to determine local contract provisions funded by local revolving funds.

The costs of federally subsidized construction will dramatically rise in urban areas and even more so in rural areas.

My State cannot afford to spend safe drinking water funds to finance artificially high construction costs.

Davis-Bacon is simply a way to dig deeper and deeper into American taxpayer pockets. It is another way for Congress to increase the burden of Government on Americans.

It is another way for Congress to make certain that it controls the hard-earned income of taxpayers instead of letting taxpayers spend their own money or if the money is to be spent to accomplish the most bang for taxpayer dollars.

I commend my friend from North Carolina for his work on this issue and I urge my colleagues to join us in stripping this Davis-Bacon provision from this bill.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. All time of the Senator from North Carolina has expired.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized for 5 minutes.

Mr. METZENBAUM. Mr. President, I do not know any Member on the other side of the aisle for whom I have more respect than my good friend from Iowa. But when he suggests that the working people in this country are special interests, I have to stand and say I strongly take issue with that. These are average working Jacks and Jills who are working in the construction industry making $14, $16, $18 an hour, maybe $20 an hour.

This amendment would repeal the prevailing wage protections of the Davis-Bacon Act for any Government contracts funded by the Safe Drinking Water Act.

We do not want to do that. We do not want to say to average working people that you are supposed to work for less than the prevailing wage in that area. That is all this amendment is about.

The proponents of this amendment have told you that workers do not need these protections. They have told you this amendment will save Federal dollars. So it sounds like a great idea. But the fact is you do not save Federal dollars on the backs of the working people of this country. At least I do not think we should.

We have heard these arguments over and over, time and time again about this idea of saving money in this manner. We all know what is really going on here. This amendment is really about stripping longstanding labor protections away from American workers, for an illusory purpose of saving tax dollars. It has no place in this legislation.

We go through this same routine year after year. But the fact is, if we have any real concern for American working people, we cannot even consider adopting this amendment.

Let me explain briefly why workers need these protection. The Davis-Bacon law requires Federal contractors to pay the prevailing wage in a locality when performing work under a federally funded construction contract. Congress enacted this law in 1931, 63 years ago, to codify a simple public policy—that the Federal Government should not pay substandard wages to American workers. Because of the Federal Government's massive purchasing power, paying substandard wages could undercut all other employers in a given area and drive wages down for all workers.

That is not what I believe the U.S. Senate wants to bring about. The Davis-Bacon Act is premised on the notion that private contractors should not be permitted to use the shield of Federal contracts to engage in wage-busting activities.

So Davis-Bacon stands for a principle that is eminently fair to both Federal contractors and to their employees: just pay a fair wage, just pay the prevailing wage in the community, nothing more. It does not ask for $5 more than the prevailing wage. Just pay what the majority of workers are earning for similar work in the area. What could possibly be fairer than that?

Do not be fooled by the argument that America's construction workers do not need these protections. In fact, they need these protections more than ever.

The real value of their wages has been going down for years, due to inflation.

Moreover, these workers typically do not work a full 52 weeks, due to weather conditions, economic conditions, and the transient nature of construction work. The compensation for working in one of the most dangerous occupations in this country is not that high. If the prevailing wage law is eliminated, this modest earnings level of $22,000 to $23,000 will be slashed by low-wage contractors.

Ultimately, this is an issue of basic fairness.

Congress recognized that the Federal Government should encourage competitive bidding for federally funded construction contracts. But Congress also recognized that this competition should not come at the expense of construction industry workers.

Moreover, Federal dollars raised by taxing the working men and women of this country should not be used to force down their wages. We have to stand here this afternoon to protect the principle of fairness that has served us well for 63 years. We have consistently rejected efforts to undermine or repeal these protections in the past. We should reject this amendment as well.

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

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana has one minute and 40 seconds.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask the proponents of the amendment be given 4 additional minutes. That will push back the 5:30 vote a little bit.

Mr. BAUCUS. Mr. President, I might add I think it would be more fair to allocate it evenly, like say 2 and 2.

Mr. CHAFEE. That is pretty short.

Mr. BAUCUS. Three and three.

The PRESIDING OFFICER. Without objection, each side is granted an additional 3 minutes.

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I wish to thank my colleagues from Montana and Rhode Island for their courtesy.

I also wish to compliment my friend and colleague, Senator METZENBAUM. I have had the pleasure of debating him on this issue several times.

I also wish to compliment my friend and colleague, Senator FAIRCLOTH, for his amendment. I think it is an outstanding amendment. I appreciate where he is coming from—the private sector, the era that believes that individuals and businesses know how to set labor rates better than the Federal Government. He happens to be right.

My friend from Ohio said, well, he believes in keeping the law as it is. I am looking at this bill before us. This does not keep the law as it is. As a matter of fact, this expands Davis-Bacon. It goes well beyond any scope of the original passage of Davis-Bacon, because it says that fair labor standards—or "the administrator will have prevailing wage rates provided under this part including any assistance derived from repayments to the State loan fund." That is all State money.

So what we are doing is expanding the Federal mandate of Davis-Bacon, and that mandates high labor rates to the States. It is an unfunded State mandate. States are going to be saying: Wait a minute, we have paid into this fund; that is our money, but you are mandating that we have the Federal Government set the labor rates on these projects when we are spending our own money. That is not right.

In many cases, you are talking about wage rates far in excess of what is normal, standard, or what somebody might be earning when they are working on a private construction project. So if it is a Federal construction project, it may cost 50 percent more or 20 percent more. Those labor rates are going to be determined by the Secretary of Labor, using some survey instead of the private sector between employer and employee who know what that wage should be.

So, Mr. President, this bill is a massive expansion of an unfunded mandate on States because it provides for prevailing wage rates including any assistance derived from repayments to the State loan fund.

We are going to spend a lot of money in this bill—over a billion dollars. All that is covered by Davis-Bacon, under the revolving loan funds, which is $1 billion. Where the States have their own money, they should not be mandated to be paying exorbitant labor rates. Let them decide. Nineteen States have exemption from Davis-Bacon. We should not tell them they have to pay prevailing wage rates.

This is an expansion of present law, and it should not happen. We should not be mandating States, counties, cities, and rural water districts, high labor rates, and that is what we are doing.

Senator FAIRCLOTH has an outstanding amendment. I urge my colleagues to support it.

Mr. BAUCUS. Mr. President, essentially, very clearly, we have already debated this issue many times. The provisions of the bill apply to the same—the same provisions currently apply to the Clean Water Act revolving loan fund and to the Safe Drinking Water revolving loan fund. What is sauce for the goose is sauce for the gander. There are all kinds of studies that Davis-Bacon adds to the costs of construction, and it does not add to the cost of construction. A lot of studies show, frankly, that the provisions of Davis-Bacon providing for the prevailing wage actually reduce the cost of construction because of fewer delays. There is a more uniform application of the contract, fewer cost overruns, generally, sturdier construction.

In the long haul, many studies show that the prevailing wage provision tends to not increase costs in a project, but actually reduces them. The short answer is that this is an issue that has been around a long time, and all Senators are very familiar with this issue. The committee did consider this amendment in committee. It was rejected in committee by a vote, I think, of 11-6, and it was the same amendment.

I strongly urge Senators—just as members of the committee did not—to not adopt the amendment.

Mr. CHAFEE. Mr. President, I hope the Senate will adopt the amendment offered by the Senator from North Carolina. This bill establishes a State revolving loan fund program to make it

possible for small drinking water systems to comply with the requirements of the Safe Drinking Water Act.

This is a loan fund, not a grant program. Drinking water systems can borrow money. But they must pay it back. Ultimately, it is local revenue that pays for compliance. The Federal dollars committed to these loan funds is just seed money. Does it make sense to require small communities who are struggling to meet the requirements of the Safe Drinking Water Act to spend even more to meet Davis-Bacon requirements that apply to a loan program? No, it does not.

The theory of a revolving fund is that some assistance is provided by lowering interest rates on the loans. Small communities have difficulty borrowing in the municipal bond market. The SRF's give them a window for a loan at interest rates more can afford.

But not if you pile the Davis-Bacon requirements onto the loan. A modest estimate of the impact is a 1.5-percent increase in the average cost of construction projects that are required to pay wages at Davis-Bacon rates. Many estimates of the cost impact are much higher. But even at 1.5-percent, this requirement can have a large impact on the attractiveness of this SRF program for small communities.

We have an SRF program in the Clean Water Act. Interest rates have averaged 2.5 percent below market rates. You can see that if Davis Bacon increases costs by just 1.5 percent—and that is the lowest estimate—it eats up most of the advantages of this program. In fact, most large cities have chosen not to participate in the Clean Water SRF because of the Davis-Bacon and other similar cost increasing strings that go with those loans.

So, Mr. President, I think this Davis-Bacon requirement undermines the whole purpose of the SRF—access to low interest loan funds—and I would urge the Senate to support the Faircloth amendment and delete the Davis-Bacon requirement from this new program.

Mr. President, I point out also, as the Senator from Oklahoma noted, this is an enlargement of Davis-Bacon. This is not carrying on some law that has been there for 65 years. This is a broadening of the law.

I think we are ready to vote.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I think we are ready to yield back our time on the debate on the amendment offered by the Senator from North Carolina. I assume that the time on the other side has been used up, and we are ready to proceed to a vote.

The PRESIDING OFFICER. Under the order, the question is on agreeing to the amendment.

Mr. KOHL. Mr. President, I rise in opposition to the amendment of the Senator from New Hampshire on unfunded mandates, and I do so as a cosponsor of S. 933, which is Senator KEMPTHORNE'S Community Regulatory Relief Act. When I cosponsored that legislation, I did so because I believed that Congress does not give enough consideration to the costs it imposes on communities when it passes legislation. We debate the merits of each piece of legislation individually, but rarely do we consider the cumulative costs we impose on the communities.

I cosponsored S. 933 because I believe that we need to be taking a comprehensive approach in our efforts to rein in the costs we impose on the communities in our States. We should not, however, agree to piecemeal approaches to fix this problem. Mr. President, I believe that the Gregg amendment represents such a piecemeal, and therefore inappropriate, effort to address this matter.

Further, I believe that the unfunded mandate concept applied in a piecemeal manner to the Safe Drinking Water Act results in some potentially perverse conclusions. If we pass this amendment, we are essentially giving carte blanche authority to local officials to decide whether or not to enforce drinking water standards. There is no explanation in this amendment of exactly how it will determine what is funded and what is not funded. Essentially, this bill is a lawyer's dream come true, because as vague as the language of this amendment is, it would be very easy to construct a legal argument that any drinking water regulation was not fully funded.

Mr. President, when I cosponsored the Kempthorne bill, I had no intention of jeopardizing the life and health of the citizens of my State. In light of the cryptosporidium outbreak that occurred in Milwaukee in April of 1993, I think we are all fully cognizant that the quality of our drinking water is directly related to human health and safety. If we have concerns about specific drinking water standards, let's debate those. But let's not gut the law that is charged with ensuring safe drinking water to the families in our States.

It is my understanding that discussions are currently taking place between Senator GLENN, the chairman of the Senate Government Affairs Committee, and Senator KEMPTHORNE, the sponsor of S. 933, regarding the appropriate manner to proceed in addressing the unfunded mandate concerns. It is also my understanding that the desire is to have this matter addressed in a comprehensive approach. For this reason, and the other reasons stated above, I urge my colleagues to oppose the amendment of the Senator from New Hampshire.

Mr. HATFIELD. Mr. President, I rise in support of the Gregg amendment. I support this amendment because, like many Senators, I have heard from hundreds of citizens in my State about the burdens of mandates, and I agree with Senator GREGG that the practice of passing the responsibility for Federal priorities to State and local government must stop.

However, I would like to note that the Gregg amendment might be applied to the operations and maintenance of local public water systems, and I believe this may take the "unfunded mandates" argument a step too far. As with many other programs, providing safe drinking water is a shared responsibility among the Federal, State and local governments. We must strike a balance between guaranteeing that all people in this country have access to safe drinking water and allowing local communities to set local priorities. In general, daily operation and maintenance costs—including testing for contaminants—should be the responsibility of the local community and should be funded locally.

Despite my misgivings about its scope, my vote in favor of the amendment offered by my friend from New Hampshire, Senator GREGG, is a clear statement of my support for an end to the practice of unfunded Federal mandates.

Mr. BAUCUS. Mr. President, I ask for the regular order. Which amendment will be voted on first?

The PRESIDING OFFICER. The amendment of the Senator from New Hampshire.

Mr. BAUCUS. Mr. President, I move to table the amendment of the Senator from New Hampshire and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

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

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—56

Akaka	Bradley	Cohen
Baucus	Bryan	Conrad
Biden	Bumpers	Daschle
Bingaman	Byrd	DeConcini
Boren	Campbell	Dodd
Boxer	Chafee	Dorgan

Durenberger	Kerry	Pell
Exon	Kohl	Pryor
Feingold	Lautenberg	Reid
Feinstein	Leahy	Riegle
Ford	Levin	Robb
Glenn	Lieberman	Rockefeller
Graham	Metzenbaum	Roth
Harkin	Mikulski	Sarbanes
Hollings	Mitchell	Simon
Inouye	Moseley-Braun	Warner
Jeffords	Moynihan	Wellstone
Kennedy	Murray	Wofford
Kerrey	Packwood	

NAYS—43

Bennett	Gramm	McCain
Bond	Grassley	McConnell
Breaux	Gregg	Murkowski
Brown	Hatch	Nickles
Burns	Hatfield	Nunn
Coats	Heflin	Pressler
Cochran	Helms	Sasser
Coverdell	Hutchison	Simpson
Craig	Johnston	Smith
D'Amato	Kassebaum	Specter
Danforth	Kempthorne	Stevens
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Faircloth	Mack	
Gorton	Mathews	

NOT VOTING—1

Shelby

So the motion to lay on the table the amendment (No. 1712) was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from North Carolina.

Mr. BAUCUS. 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 question is on agreeing to the amendment of the Senator from North Carolina.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness.

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

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—39

Bennett	Domenici	Mack
Bond	Faircloth	McCain
Boren	Gorton	McConnell
Brown	Gramm	Murkowski
Bumpers	Grassley	Nickles
Chafee	Gregg	Pressler
Coats	Hatch	Pryor
Cochran	Helms	Roth
Cohen	Hutchison	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner

NAYS—60

Akaka	Breaux	D'Amato
Baucus	Bryan	Daschle
Biden	Burns	DeConcini
Bingaman	Byrd	Dodd
Boxer	Campbell	Dorgan
Bradley	Conrad	Durenberger
Exon	Kerrey	Nunn
Feingold	Kerry	Packwood
Feinstein	Kohl	Pell
Ford	Lautenberg	Reid
Glenn	Leahy	Riegle
Graham	Levin	Robb
Harkin	Lieberman	Rockefeller
Hatfield	Mathews	Sarbanes
Heflin	Metzenbaum	Sasser
Hollings	Mikulski	Simon
Inouye	Mitchell	Specter
Jeffords	Moseley-Braun	Stevens
Johnston	Moynihan	Wellstone
Kennedy	Murray	Wofford

NOT VOTING—1

Shelby

So the amendment (No. 1714) was rejected.

Mr. KENNEDY. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WALLOP addressed the Chair.

WHITEWATER

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Madam President, 2 weeks ago 40 Republican Senators wrote our leader asking him to convey to the majority leader our deep concern over the seeming reluctance of the majority to set up a mechanism for holding Whitewater hearings. It has been nearly 2 months since the Senate passed 98–0 a resolution calling for hearings to be convened in a timely fashion. In the interim, Senators on this side of the aisle have been quite patient while the two leaders negotiated the guidelines and parameters for such an inquiry.

Those negotiations appear to have proven fruitless. Perhaps that was to be expected. Perhaps Senators on the other side of the aisle are not eager to schedule or hold Whitewater hearings. Perhaps they would prefer to stall as long as possible in the hope that interest will wane and somehow hearings will no longer be deemed necessary. This Senator believes they are mistaken.

Questions have been raised by the press, media analysts, and political pundits about the Whitewater matter. Has the media coverage been overblown from the start? Should it take precedence over other issues of national concern? Has the administration satisfactorily answered the questions, put the matter behind them? This Senator would reply "No" to each of those questions.

This matter has not been overblown, in fact it has been largely ignored by all but a few domestic news outlets. While this issue should not take precedence over all other issues, neither is this an either or proposition. Surely we can get to the bottom of the Whitewater matter and still conduct the rest of the Nation's business, unless a dedicated few truly do not want Whitewater investigated.

Finally, the White House has not put the Whitewater matter behind it precisely because they have not answered fundamental issues raised by the Clintons' actions and associations. Until that is done—either by the Clintons, the special counsel, or by Congress—this matter will nip at the administration's heels.

Madam President, in recent weeks the President and the First Lady have each held a press conference to answer Whitewater questions and allegations. While both press conferences were public relations successes—and reportedly that was their true purpose—each failed to answer legitimate questions about the Clintons' activities and associations here and back in Arkansas. That is not simply the conclusion of the Senator from Wyoming, Mr. President. It is also the considered judgment of most independent observers.

After Mrs. Clinton's press conference, the New York Times editorialized:

> As political theater, Hillary Rodham Clinton's news conference Friday afternoon was undeniably a smash hit . . . but her performance, however deft, leaves plenty of troubling issues for the special prosecutor and Congress to explore.

Mr. President, let me repeat that: leaves plenty of troubling issues for the special prosecutor and Congress to explore. The New York Times believes there are sufficient questions to necessitate congressional inquiry.

The New York Times wrote that Mrs. Clinton failed to adequately address the question of whether wealthy benefactors who did business with the State government were padding the Clinton family income while Mr. Clinton was attorney general and Governor. On the matter of the commodities trading, the Times noted that Mrs. Clinton's dealings with Tyson Foods lawyer James Blair might have raised an ethical red flag with some people, but Mrs. Clinton said she saw no problem because Mr. Blair and his wife are among our very best friends.

The New York Times also dismissed the First Lady's account of the Clinton's involvement with the McDougals in the Whitewater Development. The Times noted that Mrs. Clinton:

> Could not explain why Mr. McDougal wound up losing a lot more money than the Clintons did in what was supposedly a 50–50 deal. Her only real answer was that for 10 years she had no idea of what was going on and that she did not receive "any documents until late in the 1980's." That was a strange confession of ignorance from a woman who had spent the previous hour insisting that she maintained hawklike vigilance over her commodities trades and was deeply concerned with building a family nest egg.

However, perhaps the most damning assessment of the First Lady's performance was left for last. The Times lamented:

> Nor was it comforting to find the First Lady slipping into answers that seemed guarded or legalistic. When asked if her com-

modities broker might have given her a favorable advantage because of her position, she replied with a lawyerly "there's really no evidence of that. I didn't believe it at the time." . . . She said she knew "nothing to support" allegations that money was diverted from . . . Madison S&L into Whitewater to benefit the Clintons.

Once again, Madam President, those quotes come from the New York Times editorial 2 days after the First Lady's press conference.

The Washington Post editorial was only slightly less critical of the First Lady's performance. In response to Mrs. Clinton's claim that she had not received favorable treatment during her commodities dealings, the Post noted that her flimsy rationalization about lack of margin calls:

Along with her inability to explain how she was permitted to enter the market with $1000 when a single contract cost $1200, was better than not hearing anything from her at all. But it probably won't halt speculation about the help she received in ballooning her financial investments.

The Post concluded that "[T]he central question of whether funds from the failed-Madison Guaranty Savings and Loan were improperly shifted to Bill Clinton's gubernatorial campaign or to the Clintons' Whitewater real estate venture remains a live issue after the news conference"—let me repeat—"Remains a live issue after the news conference."

Finally, the Washington Post alluded to the "penetrating question" posed by the Resolution Trust Corporation's senior investigator in the Whitewater—Madison Guaranty case: "If you [the Clintons] aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used for your benefit?" To this, the Post wrote, "Mrs. Clinton offered a less than satisfying response: 'Well, Shoulda, Coulda, Woulda, we didn't.'" The Post concluded: "answers like that won't put away Whitewater."

Madam President, I ask unanimous consent that both the New York Times and the Washington Post editorials be inserted in the RECORD in their entirety following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. WALLOP. Madam President, if we are truly seeking answers, we must face reality: We are not getting them. The Clintons are either unwilling or unable to provide thorough, complete, and factually accurate answers, even after being hounded and cajoled. As the editorials I have just mentioned conclude, the press conferences have not been enough. And as experience with this administration indicates, we cannot rely upon the Clintons to be unilaterally candid and forthcoming. That is also the common perception among the people, according to polls. The American people may not believe each of the specific aspects of Whitewater is of great consequence, but they are disturbed by equivocation and dissembling with which the administration has handled matters.

In an April 13 Washington Post OP-ED, liberal columnist Richard Cohen gave voice to this concern in describing the advice he would have given to the Clintons on Whitewater had they asked: "Answer all the questions, hold nothing back and—no matter what—tell the truth." Then, Mr. Cohen noted:

For some reason though, the Clintons have done nothing of the sort. They have, in fact, given out stories that have prompted the White House Press Secretary, Dee Dee Myers, to resort to formulations not heard in Washington since Watergate itself. An account of Hillary Clinton's dealings in the futures market, for instance, is "No longer operative." In other words, it wasn't true.

Richard Cohen's conclusion, I believe, aptly underscored a critical issue now enmeshed in this whole affair. He wrote:

Whatever Whitewater—and related matters—might eventually be about (maybe nothing), it is now about candor. The Clintons—not the press and not some right-wing Daddy Warbucks—have made it that. The White House seems incapable of just coming out with it—the details, the facts, the bloody truth. Maybe the Clintons think they are more clever than the rest of us. Maybe they think that since the truth and their preferred political image do not conform, it's okay to monkey with the former to match the latter. Maybe Clinton does have a character problem—an impulse to say whatever will suffice at the moment, never mind the literal truth. Maybe all of these speculations are true.

But the fact that they are raised at all has little to do with the vaunted adversarial nature of the press and everything to do with the way Bill and Hillary Clinton have played cute with the truth. If they were children, they'd be grounded. Since they are President and First Lady the most the press can do is ask questions—and the least the Clintons could do is answer them frankly. If they had done that from the beginning, Whitewater would be about an obscure land deal and not about the character of the First Family.

Madam President, some may believe this to be a rather harsh indictment of the Clintons. But regrettably, Mr. COHEN's assessment is borne out by the facts.

Simply look at the White House's handling of just about any of the issues which have arisen to date—Travelgate, Vince Foster's suicide, the First Lady's commodities trading, their involvement with James McDougal in the Whitewater Development—and we are repeatedly confronted with myriad claims, revised versions of events, and continuous corrections.

The impression being left with the American people is that either the Clintons have something to hide—and thus all the prevarication—or they are simply incapable of distinguishing or telling the truth. When the Clintons provide answers to inquiries, the answers tend to be purposely vague and guarded or simply incorrect. This pattern has been repeated time and again and it is increasingly difficult to ascribe these inconsistencies to innocuous or innocent motives.

Madam President, in 1992 the New York Times first raised questions about Whitewater. At that time, the Clinton campaign had a Denver attorney and old friend of Bill Clinton's, James M. Lyons, hire an accounting firm to prepare a report which ostensibly "exonerated the Clintons of any misrepresentations." The Lyons report was released by the Clinton campaign to diffuse questions about the Clintons' involvement in Whitewater.

Now, very troubling press stories are emerging with respect to the Lyons report. Claims contained in the Lyons report conflict with the very financial records upon which the report was purportedly based. According to the Los Angeles Times article which appeared on April 15, 1994—Tax Day, ironically:

Newly released tax returns for the Whitewater Development Corp. raise fresh questions about the assertion by President Clinton * * * that they poured tens of thousands of dollars into the losing venture and received nothing in return.

Yet the corporate tax returns of the Whitewater Development, made public for the first time earlier this week, do not show evidence of payments anywhere near as large as the Clintons have said they made. Instead of documenting the $46,636 that the Clintons say they lost on the Whitewater project, the tax records and supporting documents show only about $13,000 * * * in such payments.

Madam President, in the interest of time, I would ask that a series of additional passages from this article be printed in the RECORD at this point and that the full text of the article be placed in the RECORD following my remarks.

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

SELECTED PASSAGES FROM 4/15/94 L.A. TIMES ARTICLE ON LYONS REPORT

[The Clintons] have consistently defended themselves . . . by arguing that they lost $46,636 on the land development project during the 1970's and 1980's. Most of the money they spent, they have said, [was] large interest payments made for Whitewater Development from their personal funds.

The corporate tax records seem to support assertions made in recent months by [James] McDougal . . . [who] claimed that the Clintons only invested about $13,000 in the Whitewater Project, not the larger amounts cited by the President.

The Clintons' personal tax returns for the years in question show that they claimed $46,636 as tax deductions, though no canceled checks or bank statements have been released to substantiate the deductions. The Clintons have said the payments they claimed on their personal returns were made directly to banks holding Whitewater Mortgage or to other corporations owned by James B. McDougal, the Clintons' partner in the Whitewater venture. In that case, the payments also should have shown up on Whitewater Development's corporate tax returns, according to independent tax account-

ants who reviewed the corporation's financial records.

Tax experts said the corporate tax returns should have included entries corresponding with the payments listed in the personal returns, but they do not. The White House declined to comment on the discrepancies. A source familiar with the Clintons' tax records said he could not explain why the full $46,636 was not reflected in Whitewater Development's corporate returns.

The Whitewater Development tax returns also call into question findings contained in [the Lyons] report issued by the Clinton Presidential campaign in March, 1992, in response to disclosures about the Whitewater controversy . . . financial information in the corporate tax returns conflicts sharply with the figures in that report. For example, the [Lyons] report stated that the Whitewater venture suffered losses during the years in which the corporation's tax returns show that it made money. And the corporate returns indicate that Whitewater Development was bringing in as much as $60,000 annually from land sales during years in which the Lyons report said that no land was sold.

The accounting firm that prepared the 1992 [Lyons] report clearly had access to the Whitewater Development tax returns. The campaign [Lyons] report said the analysis was based on the returns and many of the line entries in both the report and the Whitewater Development tax returns are identical.

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

(See exhibit 2.)

Mr. WALLOP. I thank the Chair.

Madam President, these facts and details have gone largely unreported in much of the media, but they have not been ignored by everyone. The New Republic magazine in its May 9 issue discussed these revelations and their import:

The [Los Angeles] Times reports that whitewater's own corporate documents suggest that the Clinton's invested a mere $13,000 in Whitewater—not several times that amount, as they first claimed. The Clinton's own tax returns claim $46,636 in payments. There are two possible explanations: either the Whitewater documents are in error or the Clintons dissembled the amount on their tax returns. More interestingly, the original Lyons report, put out by the Clinton campaign two years ago to lay Whitewater to rest, had access to the development corporation's documents—yet it concluded that the venture took a far greater loss than the documents show, as well as claiming that it was taking losses in years the newly released documents show it to have been making profits. For example, the corporate returns indicate that Whitewater was bringing in as much as $60,000 annually from land sales during years in which the Lyons report said no sales were made. Once again, there are two possible explanations: Either the Clinton campaign and Mr. Lyon's team of accountants simply misread the returns, or they deliberately dissembled about their contents.

Madam, President, why is this particular facet of the Whitewater controversy important? Obviously, if the Clinton's claimed tax deductions to which they were not entitled, they will have to rectify their mistakes—as they recently did in the case of the previously unreported profits from Mrs. Clinton's commodities trading. However, there is a larger issue at stake, best described by columnist William Safire in an April 11, 1994, New York Times op-ed:

Why pursue this old story to its source? Because when Whitewater was first exposed by the New York Times in early 1992, candidate Clinton effectively squelched it with a legal-accounting report that was at least misleading, and may turn out to be a tissue of lies. If so, President Clinton should be held accountable. * * * Would it weaken this Presidency? Sadly, yes. But for one party government to condone a campaign cover-up would damage the American system far worse—which is why the truth about Whitewater must be flushed out.

Madam President, the charge of a campaign coverup is certainly a serious one—both in the damage it could cause if proven true and in the cost to the country if true but not investigated or pursued. While it is premature to accuse the Clinton campaign of deliberately using the Lyons report to dissemble the facts, it may be equally premature to totally dismiss such speculation.

On ABC's Nightline, April 19, 1994, Clinton campaign strategist James Carville tried to deflect press and public attention from the Whitewater matter by proclamining:

Well, my word is that this is an overblown story. It is not a very good time for the media. The American people are turning, the story is turning in favor of the President, and it's time to get off of it and move to something else. Or if you've got something, you want to say there's some wrongdoing, come forward with it. But there is an onslaught of opinion that the mainstream media has overplayed its hand on this story.

To this, Max Frankel, executive editor of the New York Times responded:

In all of 1992, we who started this particular string going, we had one story on Whitewater. * * * We were confronted by a massive blockade: Detectives, public relations experts, lawyers. No more answers, no more documents. We met a stone door, and for us this became unfinished business. We have had one or two, at the height of it I think three reporters on this out of 350, 400. The charge that this is overtaking our coverage of patiently ridiculous. * * * And what could have been a three-day story if it was really innocent has become now a three-month story because every day a new fact is dribbled out, only to be contradicted the next day. We got very little help on this particular strand of the Clinton's background, and the chickens are coming home to roost.

So this pattern—"We were confronted by a massive blockade * * * no more answers, no more documents * * * every day a new fact is dribbled out, only to be contradicted the next day"—is not new, it was the modus operandi of the Clinton campaign and is now apparently that of the Clinton administration.

Mr. Carville's comments are curious indeed when juxtaposed with comments attributed to him in a recent Newsweek magazine article. Let me quote from the April 11, 1994, article which described a particular situation on the 1992 campaign trail:

After the Illinois primary [Hillary Clinton] said in response to a reporter's question that she had never, ever profited from state business. The [campaign] staff was horrified to discover that this was not entirely true, when it turned up a 1986 memo detailing her decision to give up the bond profits. The [campaign] war room was plunged into gloom as it tried to decide what to do with the information. This is a disaster, said campaign strategist James Carville at the time * * * Carville & Co. were furious with the Clintons for failing to come clean with their own advisers. I've had blind dates with women I've known more about than I know about Clinton, said Carville. The arrogance, exclaimed a senior adviser that night. The arrogance that they—because they are smarter than most people—can talk their way out of any problem.

Frankly, Madam President, that article actually begs the question of whether Newsweek deliberately sat on this story during the campaign to keep from embarrassing the Clintons and possibly hurting the Clinton-Gore election effort. But if the Newsweek report is accurate, what does it tell us about the mores of the Clintons and their campaign operatives? We can certainly dismiss out of hand Mr. Carville's incredulity at the media attention Whitewater has received.

Madam President, let me conclude. There apparently is a feeling in the country that the reason there is so little interest in the details surrounding Whitewater is that the electorate simply believes that this is nothing out of the ordinary with politicians—it is "politics as usual." Well, Madam President, this Senator does not believe the electorate at large truly knows the complete details surrounding the various aspects of the whole Whitewater saga. If they understood the magnitude and the gravity of matters at issue, I do not believe they would simply shrug it off in a matter-of-fact fashion.

Madam President, if this is politics as usual, then our society suffers from a moral and political deterioration much more grave than this Senator believed. If, as this Senator firmly believes, this is not politics as usual, but we do nothing; we thereby give the impression of our acquiescence or, even worse, our approval, and we are ultimately responsible for the continued debasement of our political process, our institutions, and our heritage.

Therefore, Madam President, due to the apparent impasse over convening Whitewater hearings, those of us who do not believe this is "politics as usual" are compelled to come to the floor and delineate why we believe there are legitimate issues at stake and questions that need to have answers—real answers, Madam President, not the variety to which we have been treated in the last couple of months.

Hearings are necessary, Madam President. Our democracy will not be shattered by a public hearing on this

matter. But democracy without truth is a fatal deceit upon which its future cannot survive.

Madam President, I yield the floor.

EXHIBIT 1

[From the New York Times, Apr. 24, 1994]

MRS. CLINTON STEPS FORWARD

As political theater, Hillary Rodham Clinton's news conference Friday afternoon was undeniably a small hit. She serenely answered an hour's worth of aggressive questions on her complex adventures in the commodities and Arkansas real estate market. She was also forthrightly remorseful about her earlier resistance to the press and to the appointment of a special counsel.

The First Lady, declaring she had decided to emerge from her "zone of privacy," seemed finally to grasp a central truth that has eluded the White House staff and her husband for months: In presidential behavior, unanswered questions create a vacuum that sucks everything into it—including the energies of the press, the legislative vitality of Congress and the attention of the chief executive.

It is of course up to Robert Fiske, the special counsel, to determine whether the Clintons' financial dealings broke the law or whether they merely reflected the fluid ethical mores of Arkansas. But from the beginning, the White House's inability to provide a consistent factual narrative of the Clinton's financial history has made the entire business seem suspicious. Mrs. Clinton's appearance, even this late in the game, was a welcome if belated antidote to months of stonewalling.

Mrs. Clinton did not, however, adequately dispense with one central issue: whether wealthy benefactors who did business with the state government were padding the Clinton family income while Mr. Clinton was Attorney General and Governor. She conceded that most of her highly profitable commodities trades were executed on the advice of James Blair, a lawyer for Tyson Foods, a large company that was heavily regulated by and received substantial tax credits from the Arkansas government. That might have raised an ethical red flag with some people, but Mrs. Clinton said she saw no problem because Mr. Blair "and his wife are among our very best friends."

Mrs. Clinton likewise insisted that James McDougal, the Clintons' partner in the Whitewater land deal and the owner of a savings and loan regulated by the state, and provided no special favors. But she could not explain why Mr. McDougal wound up losing a lot more money than the Clintons did in what was supposedly a 50-50 deal. Her only real answer was that for 10 years she had no idea of what was going on and that she did not receive "any documents until late in the 1980's." That was a strange confession of ignorance from a woman who had spent the previous hour insisting that she maintained hawklike vigilance over her commodities trades and was deeply concerned with building a family nest egg.

Nor was it comforting to find the First Lady slipping into answers that seemed guarded or legalistic. When asked if her commodities broker might have given her a favorable advantage because of her position, she replied with a lawyerly "There's really no evidence of that. I didn't believe it at the time." Often she denied awareness of events without quite denying the events themselves, as when she said she knew "nothing to support" allegations that money was diverted from the troubled Madison S. & L. into Whitewater to benefit the Clintons.

The First Lady's willingness to open herself to questions is welcome but her performance, however deft, leaves plenty of troubling issues for the special prosecutor and Congress to explore.

[From the Washington Post, Apr. 25, 1994]

MRS. CLINTON MEETS THE PRESS

The Hour or so Hillary Rodham Clinton devoted last Friday to fielding Whitewater-related questions from the White House press corps was time well spent. She appeared and sounded as confident and unflappable as Bill Clinton did during his prime-time televised news conference last month. The setting—Mrs. Clinton was seated casually in a chair and spoke without notes—conveyed an openness and eagerness to engage in a full give and take about her business moves as well as the other Arkansas affairs that now occupy the attention of a special counsel, Republicans in Congress and, of course, the press. This was an event that could well have happened long ago.

Many people have been having trouble sorting out what to make of Mrs. Clinton's successful venture into the commodities markets. White House disclosures about her trading activities clearly had a hide-and-seek quality that didn't help. Mrs. Clinton accepted blame for the shifting stories coming out of the White House. "I'm not in any way excusing any confusion that we have created," she said. "I don't think that we gave enough time or focused enough." But beyond that concession and her acknowledgment that she had been a chief foe of the appointment of a special counsel—for reasons of precedent—Mrs. Clinton held her ground that she crossed no ethical lines as the governor's wife in trading cattle futures on the advice of a close friend who also served as outside counsel for Arkansas's biggest employer.

She maintained that she never received "any favorable treatment" in her commodity dealings because of who she was or her husband's position. In explaining why she wasn't required by her broker to meet "margin calls" or to put up additional money to cover losses in her account, as is customary, Mrs. Clinton speculated that the company was either backed up with paperwork or she was too good a customer for them to worry about. That answer, along with her inability to explain how she was permitted to enter the market with $1,000 when a single contract cost $1,200, was better than not hearing anything from her at all. But it probably won't halt speculation about the help she received in ballooning her financial investments.

The central question of whether funds from the failed-Madison Guaranty Savings and Loan were improperly shifted to Bill Clinton's gubernatorial campaign or to the Clintons' Whitewater real estate venture remains a live issue after the news conference. Mrs. Clinton flatly declared that she knows nothing about any such diversion. To the penetrating question raised by the Resolution Trust Corp.'s senior investigator: "If you [the Clintons] aren't putting money into the venture, and you also know the venture isn't cash flowing, wouldn't you question the source of the funds being used for your benefit?" Mrs. Clinton offered a less than satisfying response: "Well, shoulda, coulda, woulda, we didn't." Answers like that won't put away Whitewater. But as Friday demonstrated, fielding questions is better than going in the bunker.

EXHIBIT 2

[From the Los Angeles Times, Apr. 15, 1994]

TAX DOCUMENTS RAISE NEW QUESTIONS ON WHITEWATER; INQUIRY: REAL ESTATE COMPANY'S RETURNS DO NOT REFLECT LOSSES CLAIMED BY PRESIDENT CLINTON AND HIS WIFE

(By James Risen)

Newly released tax returns for the Whitewater Development Corp. raise fresh questions about the assertion by President Clinton and his wife that they poured tens of thousands of dollars into the losing venture and received nothing in return.

The Clintons have consistently defended themselves against critics by arguing that they lost $46,636 on the land development project during the 1970s and 1980s. Most of the money they spent, they have said, consisted of large interest payments made for Whitewater Development from their personal funds.

Yet the corporate tax returns of Whitewater Development, made public for the first time earlier this week, do not show evidence of payments anywhere near as large as the Clintons have said they made. Instead of documenting the $46,636 that the Clintons say they lost on the Whitewater project, the tax records and supporting documents show only about $13,000 in such payments by the Clintons.

Tax accountants said the corporation would have been obligated to reflect the full amount if it was adhering to standard accounting practices.

The Clintons' personal tax returns for the years in question show that they claimed $46,636 as tax deductions, though no canceled checks or bank statements have been released to substantiate the deductions.

The Clintons have said the payments they claimed on their personal returns were made directly to banks holding Whitewater mortgages or to other corporations owned by James B. McDougal, the Clintons' partner in the Whitewater venture. In that case, the payments also should have shown up on Whitewater Development's corporate tax returns, according to independent tax accountants who reviewed the corporation's financial records.

"If a good job of bookkeeping was being done, you would find some record or some notation in the tax returns that the corporation was being relieved of its obligations," by the Clintons, said Mark Rogers, a Little Rock, Ark., accountant hired by The Times to review the Whitewater Development returns.

The apparent discrepancy between the personal and corporate tax returns raises more questions about central issues posed by the Clintons' chief GOP critics: Did the President and First Lady Hillary Rodham Clinton actually lose large sums of money on the Whitewater project, as they have said, and did they receive tax benefits to which they were not fully entitled?

The corporate tax records seem to support assertions made in recent months by McDougal. McDougal has claimed that the Clintons only invested about $13,000 in the Whitewater project, not the larger amounts cited by the President. (Clinton originally had said that he and his wife contributed $68,900 to the Whitewater endeavor, but he later revised the figure.)

So far, the White House has released no supporting materials, such as canceled checks or bank statements, to document the payments listed in the Clintons' personal tax returns. Tax experts said the corporate tax

returns should have included entries corresponding with the payments listed in the personal returns, but they do not.

The White House declined to comment on the discrepancies. A source familiar with the Clintons' tax records said he could not explain why the full $46,636 was not reflected in Whitewater Development's corporate returns.

There could be several possible explanations for the discrepancies between the personal and corporate tax returns. Whitewater Development bookkeepers could have failed to properly record all of the payments made by the Clintons or a tax preparer might have overlooked them. Similarly, the Clintons' records might have been faulty. Indeed, the Clintons and McDougal have characterized Whitewater Development's record-keeping practices as somewhat haphazard.

Whitewater Development's corporate returns show that in 1980, Hillary Rodham—the name used by the First Lady at the time—made $10,131 in interest payments on behalf of Whitewater Development. In 1979, the returns show, Bill Clinton made a loan to Whitewater Development of $2,900.

In 1981, however, Hillary Clinton received $15,185 back from Whitewater Development, according to the corporate tax records. The entry indicates that the payment was in the form of land owned by the corporation and not in cash.

Hillary Clinton took out a $30,000 loan from a McDougal-controlled bank to build a model home on one Whitewater lot, according to documents released by McDougal along with the corporate tax returns. But the corporate returns indicate that the property was not considered an asset of the corporation. Hillary Clinton later sold the property herself.

The Whitewater Development tax returns also call into question findings contained in a report issued by the Clinton presidential campaign in March, 1992, in response to disclosures about the Whitewater controversy. The report, prepared by an accounting firm hired by James M. Lyons, a Denver attorney and old friend of Clinton, exonerated the Clintons of any misrepresentations.

Financial information in the corporate tax returns conflicts sharply with the figures in that report. For example, the report stated that the Whitewater venture suffered losses during years in which the corporation's tax returns show that it made money. And the corporate returns indicate that Whitewater Development was bringing in as much as $60,000 annually from land sales during years in which the Lyons report said that no land was sold.

The accounting firm that prepared the 1992 report clearly had access to the Whitewater Development tax returns. The campaign report said the analysis was based on the returns and many of the line entries in both the report and the Whitewater Development tax returns are identical.

The White House has distanced itself from the 1992 report in recent months but still uses many of its basic findings to defend the President and Hillary Clinton.

Rogers said there is nothing in the Whitewater Development tax returns, the Clintons' personal tax returns as released by the White House or the campaign report that explains the discrepancies between the documents.

SAFE DRINKING WATER ACT AMENDMENTS OF 1994

The Senate continued with the consideration of the bill.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I rise to speak about an issue that I spoke about last Monday here on the Senate floor—a little over a week ago. The issue deals with the substandard, mostly rural, subdivisions along the United States-Mexico border called colonias.

This is an issue that the Senator from Arizona addressed earlier and we had a vote on here in the Senate. Colonias came into existence when developers sold families coming across the border small, unimproved lots with the promise that water, sewer, and other services would soon follow. These basic infrastructure needs did not follow, resulting in communities that resemble those in developing countries.

In my home State of New Mexico, we have approximately 14 colonias located near Las Cruces. Those 14 colonias contain about 16,000 people. I visited several of these colonias. I have seen the families coping with conditions that most of us would have difficulty believing—unfinished cinder block homes with sewage pipes not connected to anything, dumping directly into open ditches. Children who play in these polluted ditches are plagued by serious, debilitating illnesses such as hepatitis and intestinal infections, stomach disorders, and low-grade fevers.

It is hard to believe that in this country we have people living under these circumstances.

Madam President, I want to share several pictures with colleagues this evening, to show the kind of conditions that we find in these colonias. I particularly thank Congressman COLEMAN of El Paso for providing these images, and especially for his leadership and support in the House in addressing the issue.

Let me very briefly run through these. This first picture is an open ditch next to an area where household waste is being dumped, including soiled diapers. Clearly, this is the kind of circumstance we find in most of these colonias.

This next photograph is a typical pump used by colonias residents to extract ground water for bathing and washing dishes and, in some cases, drinking.

This next one is a warning label which has been put on drinking water in the colonias in question here, indicating that "this water is unsafe."

This next one shows an open ditch which serves as a family toilet.

So the extent of the problem is clear.

This final photograph shows open ditches and drains that are common in all of these colonias. These untreated sludge pits are the ideal breeding grounds for disease-ridden rodents and larvae, which spread illness throughout the community.

Madam President, the situation that I have described and that these pictures depict is not unique to New Mexico. All of the border States—New Mexico, Arizona, California, and Texas—are all desperately trying to deal with these impoverished communities.

My colleague, Senator HUTCHISON, is also concerned about the issue, especially in her State of Texas. Last Tuesday, the Water and Power Subcommittee of the Energy and Natural Resources Committee held a hearing where EPA representatives and others discussed the importance of providing assistance to these colonias. Senator HUTCHISON testified at that hearing, and State representatives specifically stated the importance of passing legislation that would authorize grants to colonias for water infrastructure needs.

In fiscal year 1994, the President requested $58 million dollars for Mexico border projects. While this funding was not appropriated, the Congress did appropriate $500 million to assist hardship communities, which has been referred to several times during the debate on this bill. This funding is to become available following enactment of authorizing legislation. In response to the problem, I introduced the amendment in question, along with Senator HUTCHISON, as an amendment to the Safe Drinking Water Act. This is exactly the bill that I introduced earlier as Senate bill 1286, the Colonias Wastewater Treatment Act.

The amendment would authorize the administrator of the EPA to provide funds for States for grants to colonias for water supply and wastewater treatment works. Grants would include planning, design, and construction of water supply, and wastewater treatment. The eligible communities would be those along the border.

Madam President, it is critical that we find a way to authorize this funding this year. I believe the best vehicle that is available at this time, of course, is the Safe Drinking Water Act.

I know Senator HUTCHISON wishes to comment also on the legislation, and she is probably on her way to the floor. Let me see if the chairman of the committee could give a reaction as to the appropriateness of us pursuing this legislation as an amendment on this bill. I have not called the amendment up yet, but it is on file at the desk. I am anxious to know whether the Senator from Montana feels that we can go ahead with this amendment on the Safe Drinking Water Act.

Mr. BAUCUS. Madam President, I first want to give a compliment to the Senator from New Mexico. He has been diligent—which is, I might say, an understatement—in the number of times that he has talked to me about addressing border problems facing New Mexico. I would say he has approached me a good dozen times on the proper way, the proper bill, the way to essen-

tially deal with this problem. I commend him, and I think all of the residents of New Mexico can be very proud of their representative on this and other issues.

There are other similar amendments pressed by Senators that deal with the basic similar problem, namely, how to address pollution along the border. It is a severe problem, there is no doubt about it. I was there, and I visited the border—not the New Mexico border—but the summer before last I was in El Paso and Juarez, and I can tell the Senator from New Mexico that I have visited colonias, and I have seen them, I have smelled them, tasted them. It is a severe problem. It turns your stomach to see the conditions under which a lot of people have to live. The several that I visited have just sprung up because of the maquiladora dual-plant system along the border. These are people who come to get jobs, and the populations have increased dramatically in these communities. They have no place to live, so they squat, they find a spot and erect a tar-paper shack, and many more tar-paper shacks are erected right next to them, and pretty soon there are communities of tens of thousands of people, who are just trying to survive.

They have no drinking water system—none. No sewage system—none. Maybe in some cases, there is a power line, so there is a light bulb that turns on. The ones I visited had, as I said, no drinking water, and people had to cart it there in tanks, in order to wash their clothes with, water to drink, and water to cook with. To make it even worse, Madam President, because there is no sewage, all the raw sewage is put right in the river. Tons of raw sewage goes right in the Rio Grande. Alongside the Rio Grande I remember seeing a separate river called Aqua Negras, and I think that means black ditch or black water. It is just sewage, and you could not get more than say 50 yards to it and you could smell it. It is quite a sight. It is true that the hepatitis rates and infectious disease rates along the border are much higher than in other parts of the country. It is a major problem. The real question is, How to best deal with it?

As I have said to the Senator from New Mexico several times, it is the committee's wish and preference that the best way to deal with this very severe problem would be to take this request, and other similar requests other Senators have made with respect to needy communities in their States, and work together and find a way to address the problem, along with other problems, when the Clean Water Act comes before the full Senate.

This essentially is a Clean Water Act problem. It is a sewage treatment facility matter—that is, finding the dollars to pay for it. In addition, Madam President, you already have the State revolving loan fund from which we allocate close to $2 billion for clean water projects, and that will be available to New Mexico, Arizona, California, Texas, and every other State in the Nation. That is in addition to the State revolving loan fund provided for under the Safe Drinking Water Act. So there are dollars available to States to address this.

We are suggesting that an additional pool of funds be made available, to some degree, under the auspices of the United States-Mexican Border Environment Commission and maybe under the North American Development Bank, which is provided for under the North American Free-Trade Agreement. When the Clean Water Act comes up for authorization, it would be the committee's intention to work aggressively with the Senator to find a way to address the problems he has so eloquently and passionately addressed.

Mr. BINGAMAN. Madam President, I thank the Senator from Montana, the manager of the bill, for his assurance that this is an issue we can address here later in the legislative year. I do think that I am willing to defer to his judgment as to whether this is the right bill to add this amendment on, but clearly it is an amendment that I feel strongly about.

I know the Senator from Texas, who is here on the floor now and ready to speak, feels strongly about this. We do need to be sure that there will be an opportunity soon for us to offer the amendment to a bill which is likely to be signed into law by the President while this money is still available to be authorized.

So I appreciate the chairman's statement that he will work with us to find such a vehicle, and I look forward to working with him to be sure that we can get this problem addressed and get this authorization accomplished.

Thank you very much, and I know the Senator from Texas is also wishing to make a short statement on this. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Madam President.

I do want to add my thanks to the chairman for his commitment to help bring this amendment to a close at least in some other legislation.

Out of the $500 million that has been appropriated for this purpose, the administration has suggested $60 million be allocated for our border States for the colonias.

I think that is very fair and reasonable, and when we all sit down to allocate that $500 million we, I hope, we will be able to come to agreement to help a very critical situation on the border with Mexico.

Colonias are really neighborhoods, but they are unincorporated communities, mostly in Texas and New Mexico, but also Arizona and California. These are people who came into our country. They are legal aliens. They are people who want to do better for themselves and to have that opportunity. It is the story that we have seen in America so many times where our immigrants come in. They want to do well. They do not want to go into the welfare system. But we must provide for them the clean water that must be appropriate for living conditions.

I think if John Steinbeck had been alive today he would have written about the colonias much as he wrote in the past about the terrible conditions that he found in some parts of America.

We must do something about this. The State of Texas has already authorized $250 million for matching grants for these colonias' water and waste water projects. I think the State of Texas is right to do that.

The State of Texas has also passed a law that requires developers in the future to meet the standards that every developer should meet, which is that there will be a water system and a sewer system in every neighborhood that is built, and the State Attorney General will prosecute developers who do not live by these rules.

But it is very important that we correct the current situation, and it will take a lot of money to do that. The State of Texas has stepped up to the line, but it is a Federal problem. It is something that happened because our borders were open where they should not have been open.

So I appreciate the chairman's willingness to work with us. I appreciate the senior Senator from Rhode Island also being willing to help us when the time comes to divide up the $500 million to make sure that these border communities do have a fair shake to start their lives and to make something of themselves as we in America know is the case for the wonderful people who do come into our country who want to work and make a living and raise their families in cleanliness, which they certainly have a right to do. So thank you.

I look forward to working with Senator BINGAMAN, Senator BAUCUS, and Senator CHAFEE in the future for the correct bill before September so that we can take care of this very important problem.

Thank you, Madam President. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I congratulate the Senator from Texas. She has been very determined on this matter of caring for the colonias, and she spoke to me many times about it. She outlined the situation very fairly here.

I also want to assure her as did the chairman of the committee that we

will try to find a vehicle and try to be helpful in her goal to get some of these appropriated moneys to care for this particular severe problem she has in her State. As she pointed out, it is not solely her State. It goes on in Arizona, New Mexico, and California likewise.

Mrs. HUTCHISON. I thank the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I ask unanimous consent to speak for 4 minutes as if in morning business.

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

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. I thank the Chair.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 2123 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SAFE DRINKING WATER ACT AMENDMENTS OF 1994

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 1716

(Purpose: To provide for the best coordination of disbursements for Indian set aside grant funds for the Alaska Native villages, and for other purposes)

Mr. STEVENS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for himself and Mr. MURKOWSKI proposes an amendment numbered 1716.

Mr. STEVENS. Madam 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 12, line 1, add a carriage return immediately after "DIRECT GRANTS.—", indent the text thereafter through line 8 as a separate paragraph, and insert "(1) IN GENERAL.—" immediately before "The".

On page 12, line 8, strike the period and insert in lieu thereof "; and".

On page 12, between lines 8 and 9, insert the following new paragraph:

"(2) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

The PRESIDING OFFICER. The Senator may proceed.

Mr. STEVENS. Madam President, this is a first of two amendments that I have proposed on behalf of myself and my colleague, Senator MURKOWSKI.

This one deals with the working relationship of the State of Alaska with the Native communities in Alaska. That is a very good working relationship. We have put in place a program now to deal with bringing sanitation systems and clean water to the Alaska Native villages. I described this to the Senate last week.

I know the distinguished occupant of the Chair has listened to me on several occasions concerning this program.

In January 1992 Governor Hickel convened a sanitation task force to meet regarding the dire problems of rural villages in Alaska. State and Federal agencies and the Native organizations of Alaska participated in that task force. The problems were outlined and a consensus was reached on how to best try to deal with the problems.

Basically, the cooperative effort has facilitated delivery of Clean Water Act funds to villages in Alaska. This amendment makes sure the cooperative relationship is maintained for funds authorized under the Safe Drinking Water Act.

Our amendment does so by ensuring that grants for village safe-drinking water projects go through to the villages in the same way as the clean water grants. This will allow for an even greater level of coordination in the delivery of drinking and wastewater projects to these areas.

It is a very difficult problem. We are trying to cooperate across the board. As I have said, this is the first of the two amendments that we have discussed with the managers of the bill and the staff.

Mr. CHAFEE. Madam President, am I correct that the Senator now is taking the first of these two amendments to S. 2019?

Mr. STEVENS. That is correct; the amendment on page 12, lines 8 and 9 inserts a new paragraph.

Mr. CHAFEE. That is correct. That is entirely agreeable on this side, Madam President.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, both amendments being offered by the Senator from Alaska have been cleared on this side. We support them.

Mr. STEVENS. I thank the managers. I ask the adoption of this first amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1716) was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1717

(Purpose: To clarify regional status for small water system technology centers, and for other purposes)

Mr. STEVENS. Madam President, I ask that the clerk present the second amendment.

This amendment is for Senator MURKOWSKI and me. It is his amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. MURKOWSKI, for himself and Mr. STEVENS, proposes an amendment numbered 1717.

The amendment is as follows:

On page 68, between lines 10 and 11, insert the following new subparagraph:

"'(I) For purposes of this subsection, the State of Alaska shall be considered a region.".

Mr. STEVENS. Madam President, this is a technical amendment that modifies a provision concerning small public water system centers which provide training and technical assistance for small public water system operators. Under the bill's present criteria, it is unclear whether universities in Alaska could qualify to house small water system centers.

The pending amendment, which my colleague from Alaska and I have worked out with the committee, ensures that the training and technical assistance centers can be located in our State. It does so by making sure that Alaska is a region for purposes of this Act with regard to the small systems centers. Our universities must still compete for the centers.

Alaska has characteristics of a region—we are one-fifth the size of the United States; the Southeast is a temperate rain forest, the North Slope has an Arctic climate, and parts of Interior Alaska are dry enough to be a desert. Thus, a center serving the diverse regional needs of Alaska is justified as being classified as being a region for this purpose.

I am very pleased the managers have agreed to this amendment that was presented by my colleague.

The PRESIDING OFFICER. Is there any further debate?

Mr. CHAFEE. Madam President, the Senator is exactly right. It is a good amendment and we certainly agree with him on this side.

Mr. MURKOWSKI. Madam President, in Alaska, the problem is clear.

Residents of rural villages in Alaska do not have either adequate drinking water or humane sanitation facilities in their homes and communities. As a result, sickness and disease, comparable to many Third World countries, are major problems for many communities.

In over half of the villages in Alaska, water is hauled to the home by hand from washeterias, watering points, or from a creek or river—a washeteria is a

centrally located building within a community where washing and drying machines are available. Washeterias also contain public showers.

In many of the homes where water is hauled by hand, a trash can is used as the water storage tank. Water for drinking, hand washing, and doing the dishes comes from this household trash can.

Of existing water service levels in rural Alaska:

Only 40 percent of rural Alaskans have piped water to their residence; 30 percent use a washeteria; 20 percent use a year round watering point; 7 percent have individual wells; and 3 percent have no system.

According to these figures, less than half of the residents living in rural Alaska villages have the basic water supply system we all take for granted, piped water to their homes.

Imagine half the residents in Washington, DC, living without running water or toilets that flush.

The results of having inadequate water and sanitation facilities are tragic.

Hepatitis A runs rampant among villagers—causing death in some cases.

Hepatitis A is a viral infection causing nausea, vomiting, abdominal pain, and in some cases a yellowing of the skin or eyes. Deaths from hepatitis A occur at a rate of approximately 1 to 5 deaths per 1,000 cases.

The water and sanitation conditions in rural Alaska must be addressed.

The water and sanitation conditions in these rural communities are considered worse than in many Third World countries.

The Alaska congressional delegation is committed to improving water and sanitation conditions in rural Alaska.

Last year, on May 5, 1993, the Indian Affairs Committee held a 4½-hour hearing on water and sanitation conditions in rural Alaska.

The committee received hundreds of pages of testimony from Federal agencies, State agencies, and Alaska Natives which described the deplorable water and sanitation conditions in rural Alaska.

The lack of basic safe water and sanitation services in rural Alaska has been well documented.

We have thousands of pages of testimony that document the unacceptable water and sanitation conditions in rural Alaska.

As a result of the May 5, 1993 hearing, the Environmental Protection Agency took the lead on this issue and formed what has become known as the Federal field work group.

The Federal field work group's goal was to determine methods by which the Federal Government could work with and assist the State in addressing the water and sanitation conditions in rural Alaska. It is my understanding that the Federal field work group has made significant progress.

The Indian Affairs Committee will soon hold a hearing to receive testimony from Federal agencies, State agencies, and Native organizations on what progress has been made over the past year and what will be done in the future to address this problem.

We will continue to work to see that safe drinking water is provided to the residents of rural Alaska and that the honey bucket is eliminated from village homes. As the country moves toward the 21st century, Alaska's rural residents should not be living in Third World conditions—they should not experience the disease and inconvenience they face because of inadequate sewer and water systems.

The amendments offered today will help solve some of these problems. I understand these amendments will be accepted and I thank the managers of this bill for their kind assistance.

The first amendment we offered allows the EPA Administrator to make grants under the 1.5 percent Indian set-aside directly to the State of Alaska for the benefit of Native villages, and the State of Alaska to use up to 4 percent of each grant under the Indian Set-Aside Program for administrative purposes.

This amendment would allow grants to be made directly to the State of Alaska and clarifies that set-aside funds may be used for administrative purposes. This amendment is helpful for purposes of management and coordination with ongoing State efforts.

The second amendment we offered would require the Administrator to consider the State of Alaska as a region when determining eligibility for grants under a provision of the bill requiring the Administrator to make grants to institutions of higher learning to establish and operate not fewer than 5 small public water system technology assistance centers in the United States.

This amendment assures that Alaska will not be excluded from considered for a grant.

Madam President, I would like to take this opportunity to comment on an amendment offered yesterday by my colleague Senator STEVENS from Alaska which I cosponsored and worked on with the senior Senator. The amendment allows the Governor of a State to reallocate unobligated State revolving funds in the form of direct grants. Under the amendment, the EPA Administrator may reserve and allocate up to 10 percent of the remaining unobligated funds under the Indian Set-Aside Program.

This amendment would redirect unused funds into needed rural community projects to improve drinking water systems.

The State of Alaska strongly supports the establishment of a drinking water State revolving fund and the set-aside for Alaska Native villages and Indian tribes. It is necessary to reserve significant funds to improve the public water systems of Indian tribes and Alaska Native villages.

The amendments that the senior Senator from Alaska and I offer will help the ongoing efforts to address this unacceptable situation.

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

The amendment (No. 1717) was agreed to.

Mr. STEVENS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. Madam President, may I take the time to thank the managers of the bill for their consideration of these technical problems for our State.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1718

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

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. BRADLEY, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. METZENBAUM, and Mr. LEAHY, proposes an amendment numbered 1718.

Mrs. BOXER. 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 7 of the manager's amendment, after line 20, insert the following:

(iv) the effects of the contaminant upon subpopulations that are identified as being at greater risk for adverse health effects in the research and evidence described in section 1442(j).

On page 18, line 13 of the manager's amendment, strike "." and insert after "water" the following:

"In characterizing the health effects of drinking water contaminants under this Act, the Administrator shall take into account all relevant factors, including the margin of safety for variability in the general population and the results of research required under this subsection and other sound scientific evidence (including the 1993 and 1994 reports of the National Academy of Sciences) regarding subpopulations at greater risk for adverse health effects."

Mrs. BOXER. Mr. President, the amendment I am offering today with Senators MIKULSKI, BAUCUS, LAUTEN-

BERG, BRADLEY, KERRY, LIEBERMAN, METZENBAUM, and LEAHY would change the drinking water standard-setting process by requiring the Environmental Protection Agency to consider sound scientific evidence, including two recent studies by the National Academy of Sciences, indicating that our children and other vulnerable groups may be at greater risk from environmental threats such as drinking water contamination than average healthy adults.

While in some cases, such as in issuing its standard for lead, EPA has considered the health effects of a contaminant on children or on other vulnerable populations, it has not done so systematically. My amendment builds upon the Kerrey-Hatfield amendment approved last week that requires that research on sensitive subpopulations be conducted.

This amendment takes the next step and requires that scientific data on vulnerable groups be considered consistently and systematically.

Mr. President, a few days ago, I had the privilege of joining the First Lady as we listened to a group of very special children tell their stories. These children are fighting for their lives. And as they bravely face life-threatening illnesses with their families, they are discovering an unfortunate truth about America—we do not always do a very good job of protecting our most vulnerable citizens from illness or caring for them once they get sick.

Mr. President, if you were to look at this bill before this amendment and you were a 170-pound man, you would feel very comfortable that your health was being protected because the standards that are set for drinking water are basically set to make sure that a 170-pound man is protected.

But many of us are not 170-pound men. Many of us are a little weaker than that. Many of us are women; some are pregnant women; many of us are children; many of us are frail; many of us are elderly.

And that is why this amendment is so important, because what we say in this amendment, Mr. President, is that in setting all the standards for contaminants, we want to make sure that these vulnerable populations are considered.

We have many studies that have shown this is very important. The National Academy of Sciences has clearly said that. My amendment would clarify and strengthen EPA's authority to provide that margin of safety for these vulnerable populations.

The amendment does not alter the legal requirement that standards must be technically feasible, which explicitly includes consideration of costs.

As we debate health care reform, and talk about how we can improve coverage, it is important that we do everything we can to prevent our people from getting sick in the first place. This is particularly true for children, infants, pregnant women, the elderly, and other vulnerable groups who are more susceptible to illnesses and whose bodies are less able to fight off illness once it strikes.

Mounting scientific evidence indicates that children, infants, pregnant women, the chronically ill, and certain other significant groups are at substantially greater risk than the average healthy adult from environmental contaminants.

Indeed, most of the more than 100 people who died as a result of drinking contaminated water in Milwaukee last year were from these vulnerable groups.

Yet we continue to look at the health effects of contaminants on the average 170-pound male when setting drinking water standards.

The scientific and public health community, and the National Academy of Sciences have been clear that infants, children, and other persons who are especially susceptible must be evaluated in setting public health standards.

For example, in its recent report entitled "Science and Judgment in Risk Assessment," the National Academy of Sciences stated that EPA should better account for "differences in susceptibility among humans in estimating individual risks." The Academy urged that EPA improved and account for its understanding of such differences in susceptibility, exposure, aggregate risk from multiple contaminant sources, and potency, in setting standards.

The Academy also concluded that "EPA should assess risks to infants and children whenever it appears that their risks might be greater than those of adults." The Academy report states that "human beings vary substantially in their inherent susceptibility to carcinogenesis," which must be more fully taken into account.

And in its 1993 report, "Pesticides in the Diets of Infants and Children," the Academy found that there are "both quantitative and occasionally qualitative differences in toxicity of pesticides between children and adults," and that exposure to many pesticides was substantially different for children than adults. The Academy recommended that EPA consider these facts in regulating pesticides.

The Academy stated:

> A fundamental maxim of pediatric medicine is that children are not "little adults." Profound differences exist between children and adults. Infants and children are growing and developing. Their metabolic rates are more rapid than those of adults. There are differences in their ability to activate, detoxify, and excrete [toxic] compounds.

The National Academy of Sciences' recommendations are reinforced by the recommendations of the World Health Organization. WHO's 1986 report, "Principles for Evaluating Health Risks from Chemicals During Infancy and Early Childhood: The Need for a Special Approach," for example, points out that:

> Generally speaking, chemicals, both organic and inorganic, are absorbed more readily by the infant than by the adult.

The report notes that infants and children are less able to detoxify many chemicals than adults, and that exposure of young children cannot only cause immediate effects but also can disturb maturation of organ systems. Thus WHO recommends,

> When health risks from chemicals are evaluated, the special characteristics of infants and young children must be recognized.

Moreover:

> variations that exist in the health and nutritional status of children reared in different social and cultural environments may influence exposure and modify response to chemicals in the environment.

Although under current law, many believe EPA already has the obligation to consider these groups in evaluating whether there is a margin of safety in developing the maximum contaminant level goals [MCLG's], the Agency has not always done so in a systematic fashion. For example, in issuing its rule for lead contamination of drinking water, EPA did specifically evaluate the risks of lead posed to young children, but in evaluating the risks of other chemicals, EPA has not always considered the special threats to children.

My amendment would clarify and strengthen EPA's authority to provide a margin of safety. The amendment would require EPA to do what the National Academy of Sciences and World Health Organizations have recommended: Consider the special susceptibility and exposure of infants, children, and other persons who are more vulnerable than the norm when exercising its authority to set drinking water standards.

Sound science dictates that such evaluations be conducted and the committee's new section 1442(j) requirement that EPA develop better data on these subpopulations will enhance our understanding of these issues. In the mean time, EPA should consider the scientific evidence and recommendations available, such as those presented by the Academy and WHO, and other sound scientific evidence.

As I noted earlier, this amendment does not override the existing statutory provisions requiring, for example, that maximum contaminant levels be feasible, based upon a consideration of the technology available in the field and considering relevant costs. It merely requires EPA to do what the Agency already should be doing anyway, and sometimes has done in the past—evaluate the impacts of drinking water contaminants on those individuals most at risk from contamination, like children and infants.

This is not only sound science, it is sound public policy, America's moth-

ers, children, elderly, and other vulnerable people deserve to be considered and protected from drinking water contamination.

Mr. President, one of the most fundamental responsibilities of government is to provide safe drinking water to all Americans, not just to 170-pound men. I believe this amendment helps us meet that responsibility. I am proud this amendment has the support of a wide range of groups including the American Public Health Association, the Licensed Practical Nurses Association, Physicians for Social Responsibility, the National Association of People With AIDS, the League of Conservation Voters, the Natural Resources Defense Counsel, the Sierra Club, American Oceans Campaign—whose president, Ted Danson, was here today working in behalf of this amendment and another I will offer later—Friends of the Earth, the U.S. Public Interest Research Group, and Clean Water Action.

I urge my colleagues to support this important amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. I commend the Senator from California for this amendment. I ask if I could be added as a cosponsor.

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

Mr. CHAFEE. Mr. President, the amendment has been cleared on this side. It is a good amendment and we are pleased to accept the amendment.

As the author of the amendment has indicated, some of us are more susceptible to adverse health effects from drinking water than others. It may be a matter of age or because of a pre-existing illness or a difference in metabolism or because of other factors, but it appears that some Americans are more sensitive—more likely to experience an illness from drinking water contaminants—than others.

The Safe Drinking Water Act already allows EPA to consider these differences. For example, EPA has set a standard for nitrate in drinking water designed to protect infants. Children younger than 6 months lack certain enzymes in their digestive system which break down nitrate. As a result the nitrate may enter the bloodstream and interfere with the blood's role in carrying oxygen. The illness is called blue baby disease. An infant with the disease turns blue for the lack of oxygen in the bloodstream.

The standard for nitrate set under the Safe Drinking Water Act is established to prevent this adverse effect. It is set to protect this specific subpopulation—children under 6 months of age. So, the law already fully authorizes the Administrator to set regulations intended to protect sensitive subpopulations. The purpose of the Senator's amendment is to assure a more systematic review of these potential effects when characterizing the illnesses that may be caused by drinking water contaminants.

Mr. President, I want to make one other point with respect to current law. When setting the health goal under the current act—the maximum contaminant level goal—the Administrator is to establish a goal at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. That is the statutory language from the Safe Drinking Water Act.

In using this authority the Administrator has usually included a 10-fold margin of safety when setting the health goal to reflect the natural variability in the susceptibility to adverse health effects among the general population. This safety factor is in addition to other safety factors that may reflect the use of data from animal experiments or for other reasons.

The consideration of sensitive subpopulations as provided in the Senator's amendment is not intended to replace this traditional margin of safety for variability in the general population. Recent studies by the National Academy of Sciences and others indicate that some subpopulations may be 100-fold or 1000-fold more sensitive to some contaminants. This amendment would assure more careful review of these sensitivities without eliminating the existing margin of safety for human variability that is known to exist in the general population.

Mrs. BOXER. I thank the ranking member of the committee on which I am proud to serve. I also thank chairman BAUCUS who has worked so hard. Many people worked hard on this. This was controversial in the beginning, we worked it out, and that is the way the legislative process should work.

I also ask unanimous consent that a letter from Carol Browner, of course the head of the Environmental Protection Agency, be printed in the RECORD as well. She is in support of this amendment.

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

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, May 17, 1994.

Hon. BARBARA BOXER,
U.S. Senate, Washington, DC.

DEAR SENATOR BOXER: I applaud your efforts to assure that all Americans are protected when they turn on their faucets for drinking, bathing, or cooking. I share your belief that the Federal government should protect the elderly, infants, pregnant women and other sensitive subpopulations when setting drinking water standards.

A growing body of scientific evidence indicates that some subpopulations may be disproportionately affected by some contaminants. For example, it is well documented that high levels of lead exposure contribute to learning disabilities in children. The National Academy of Sciences recently published two reports confirming the need to consider differing effects on subpopulations when performing risk assessments and in regulatory decisionmaking.

You and I share the same goal—the strongest Safe Drinking Water Act that provides flexibility and financial assistance to states, and sets tough standards to protect the health of all Americans. Your amendment is crucial to achieving that goal and it has my full support.

Sincerely,

CAROL M. BROWNER.

Mr. LAUTENBERG. Mr. President, I am pleased to join Senator BOXER in offering an amendment which will ensure that we protect infants, children, pregnant women, the elderly, and other groups from the threats posed by contaminants in water. I appreciate the work of my good friend from California in taking the initiative on this important issue.

Scientific evidence is developing showing that certain groups in our society like infants and children are at greater risk from environmental contaminants than the average adult.

Two recent National Academy of Sciences' reports conclude that children are at greater environmental risk from environmental contaminants. In its 1993 report, "Pesticides in the Diets of Infants and Children," the NAS concluded that there are "both quantitative and occasionally qualitative differences in toxicity of pesticides between children and adults." Since the exposure to many pesticides was substantially different for children than adults, the NAS recommended that the EPA consider these differences in regulating pesticides.

And earlier this year, in "Science and Judgment in Risk Assessment," the NAS recommended that "EPA should assess risks to infants and children whenever it appears that their risks might be greater than those of adults." So it is clear that in order to carry out the goals of the Safe Drinking Water Act to protect our citizens from the health threats posed by contaminants in drinking water, EPA must characterize the risks posed to groups like infants and children.

Under existing law, the Administrator of EPA first establishes a maximum contaminant level goal [MCLG] which would protect public health from drinking water contaminants with an ample margin of safety. In establishing this goal, EPA is required to consider the risks posed to those sensitive subpopulations which may be more at risk from the contaminant. Unfortunately, EPA has not always conducted the research necessary to determine whether these groups are subject to additional risk.

The managers' amendment which was adopted last week requires EPA to conduct research on the effects that drinking water contaminants may have on groups like infants and children. The amendment we are offering today requires the EPA Administrator to take into account the results of this re-

search and other evidence in characterizing the health effects of drinking water contaminants when establishing the MLCG.

Under the Safe Drinking Water Act, the Administrator establishes a maximum contaminant level as close to the level necessary to protect public health as can be achieved using feasible technology and taking costs into account. The managers' amendment also allows the Administrator to establish an alternative standard under certain specified conditions. But the language of the managers' amendment does not require the Administrator consider the health risks to sensitive subpopulations in setting this alternative standard. This is a significant flaw which threatens the health of these groups from drinking water contaminants.

The amendment we are offering today corrects this flaw. It requires EPA to consider the effects of the contaminant on groups like infants and children at greater risk for adverse health effects in establishing an alternative standard.

Mr. President, this amendment deals with the health of our children. Children represent the future of our country. Yet they have no political clout.

We should take great pains to preserve their young bodies and minds, not only because we are a caring society, but because in this ever increasingly competitive world—our Nation can afford no less.

I hope that my colleagues will join with Senator BOXER and me in supporting this amendment.

Mr. LEAHY. Mr. President, I am proud to join Senator BOXER today in cosponsoring her amendment to the Safe Drinking Water Act, which would ensure that safe drinking water standards provide protection for even sensitive populations.

Too often in passing legislation to protect public health, we overlook the needs of our most sensitive populations. When children drink from the school water foundation, when the elderly or people with immune system deficiencies turn on their own tap, they expect the water they are drinking to be safe.

Unfortunately, our public health protection standards do not always account for these, more sensitive members of society.

On June 29, 1993, I held a hearing of the Senate Committee on Agriculture, Nutrition, and Forestry to review the results of a National Academy of Sciences report on pesticides in the diets of infants and children. I requested this study in 1987 out of concern that our pesticide and food safety laws were not adequately protecting sensitive populations.

The report concluded that current policies do not adequately protect America's children from exposure to pesticides in food and in drinking water. I am working with the Administration and Senator KENNEDY to pass legislation in the Senate that will correct this focus in our laws regulating food safety and pesticide use.

Senator BOXER's amendment extends this public health protection to the Safe Drinking Water Act.

I would like to congratulate Senator BAUCUS for crafting a bill that addresses concerns about the cost and regulatory burden imposed by the Safe Drinking Water Act without weakening the law's strong health protection standards. Senator BOXER's amendment builds on these improvements by ensuring that the Environmental Protection Agency considers the needs of even our most sensitive populations when setting drinking water standards.

Parents should not have to wonder whether or not the water from their own tap is safe for their children. Sensitive populations have the same right to safe drinking water as the rest of us.

I applaud Senator BOXER for introducing this amendment to ensure that that right is protected, and I am proud to join her in that effort.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Will the Senator from California yield for a question?

Mrs. BOXER. I will be pleased to yield.

Mr. FORD. I am in support of the Senator's amendment, do not get me wrong. I want it very strongly and feel we are moving in the right direction and I will not object at all. But I come from a State where 80 percent of our water systems serve 10,000 people or less. Those people are becoming very concerned about the pressures that are being placed upon them for testing the water and the scientific research that has to be done. The list of particles they are looking for is expanded every year. It is getting to a point where they are almost unable to pay for that and keep rates reasonable.

What does the Senator's amendment do as it relates to the smaller water systems, as it relates to funding? Does this put additional restriction on them? I am just trying to figure out some way, so when I am questioned about this we will have the answers and it will be part of the RECORD, I say to the good Senator.

Mrs. BOXER. I am very pleased the Senator would ask this question as he fights for his State and the people in his State. This amendment does not alter the legal requirement that standards must be technically feasible, which explicitly includes consideration of costs. This amendment does nothing to change that. It just says they should also look at the effect of the contaminants on these vulnerable populations, but still does not do anything to do away with the feasibility clause in the bill.

Mr. FORD. I thank the Senator. That is the explanation I needed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, it is my understanding that Senator HATFIELD and Senator KERREY from Nebraska, both were very closely involved with this likewise and worked with the Senator from California in coming to this excellent conclusion.

Mrs. BOXER. Yes, I add that. I was remiss in not stating that. I appreciate that. We were in fact working on this for days and I am very pleased we have had this unanimity here.

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

The amendment (No. 1718) was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. FORD. 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.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the previous unanimous consent governing consideration of S. 2019, the Safe Drinking Water Act, be modified as follows: that the following amendments included in the list which I will now send to the desk be the only first degree floor amendments remaining in order and that they must be offered by 3 p.m., on Wednesday, May 18; further that all other provisions of the previous unanimous-consent agreement remain in effect.

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

Mr. MITCHELL. Mr. President, am I correct in stating that the remaining provisions of the previous agreement provide that these first degree floor amendments are subject to second degree amendments provided they are relevant to the first degree to which offered; and no motion to recommit is in order?

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. Mr. President, I send the revised list to the desk.

PROGRAM

Mr. MITCHELL. Mr. President, I thank my colleagues, the distinguished Republican leader, the managers of the

bill and all who have made this agreement possible. Since we have obtained this agreement, and since all amendments must be offered by 3 p.m. tomorrow, there will be no further rollcall votes this evening. Senators who have amendments should now be aware that they must be offered by 3 p.m. tomorrow, and it is my intention that if possible we will complete action on the bill by 6 p.m. tomorrow. If we do so, there will be no further action tomorrow after that and, as I have previously stated, it is my intention to proceed to make the necessary motions to place the crime bill in conference on Thursday. That would be the business for the next few days, to finish this bill tomorrow by 6 p.m. and then to begin the process, trying to get the crime bill to conference on Thursday.

I thank my colleagues and I yield the floor.

If the Senator has no comment I then suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each.

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

AN AMERICAN AS UNDER SECRETARY GENERAL FOR ADMINISTRATION AND MANAGEMENT AT THE UNITED NATIONS

Mr. PRESSLER. Mr. President, as a long-time supporter of U.N. reform, I was extremely interested in recent efforts to fill the position of Under Secretary for Management and Reform at the United Nations. This position was held most recently by Melissa Wells, an American whose resignation was apparently forced by the Secretary General and his staff. Last January, I encouraged the President to urge Secretary General Boutros Boutros-Ghali to appoint another American to this important and powerful position.

I was pleased to learn that an American, Joseph Connor, has been appointed to the important position of Under Secretary General for Administration and Management. I wish Mr. Connor great success in this most difficult job. It will not be easy to implement reform within an agency that seems to do all it can to avoid reforming even its most egregious practices. It also is my hope that the United States will aid Mr. Connor's efforts by seriously pushing for meaningful reform.

Mr. President, I ask unanimous consent that a copy of my letter to the President and his response be included in the RECORD immediately following my remarks.

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

U.S. SENATE,
Washington, DC, January 24, 1994.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to encourage you to urge United Nations Secretary General Boutros Boutros-Ghali to appoint an American to the important and powerful position of Under Secretary General for Administration and Management. This position was held formerly by Dick Thornburgh and most recently by Melissa Wells whose resignation apparently was forced by the Secretary General and his staff.

This is an unsettling precedent. Melissa Wells was the highest ranking American official at the United Nations. The position of Under Secretary General for Administration and Management has oversight not only over reforming the United Nations' inefficient bureaucracy and responsibility for security, contracts and support services for peacekeeping operations. Her removal further delays the reform effort. The U.S. mission at the United Nations has been pressing to streamline the unwieldy U.N. bureaucracy to satisfy those of us in Congress who have become increasingly concerned about waste and fraud.

It is my hope that we will continue to drive the U.N. towards reform despite a seeming unwillingness to move in that direction. The forced resignation of Melissa Wells should strengthen the resolve of the United States to insist on reform. This is a bureaucracy out of control, financed by U.S. taxpayer dollars. I urge you to push for the appointment of an American citizen to the powerful position of Under Secretary General for Administration and Management. If a non-American fills the position, the U.S. risks losing considerable leverage in the U.N. reform process. It is of utmost importance that the drive for reform and the oversight of that effort remain in our hands.

There are difficult tasks ahead for the United Nations. If the U.N. is to succeed in the face of limited resources, budgetary and bureaucratic reforms are necessary. The strength of the U.N. as a credible peacekeeping body depends on the effectiveness of the U.N. Under Secretary General for Administration and Management. A reform-minded American citizen appointed to this position would ensure the future credibility of the United Nations.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

THE WHITE HOUSE,
Washington, DC, April 6, 1994.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR SENATOR PRESSLER: Thank you for your letter urging that we press for an American to replace Melissa Wells as UN Undersecretary General for Administration and Management. I can assure you I consider this an especially important position at the UN which will help me carry out my commitment to serious and lasting management reform at the UN.

Ambassador Albright has submitted to Boutros-Ghali on my behalf a list of several highly qualified American candidates with substantial management expertise for this position. I have every hope that a very capable American will be selected to fill this post.

I am committed to continuing to press vigorously for concrete management reforms at the UN. Top among our current priorities is the establishment of a fully independent office of inspector general with broad oversight responsibilities.

I appreciate your longstanding interest in these issues and your support for meaningful UN reform.

Sincerely,

BILL CLINTON.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting 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 2:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 636. An Act to amend title 18, United States Code, to assure freedom of access to reproductive services.

S. 2000. An Act to authorize appropriations to carry out the Head Start Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on May 17, 1994, she had presented to the President of the United States, the following enrolled bills:

S. 636. An act to amend title 18, United States Code, to assure freedom of access to reproductive services.

S. 2000. An act to authorize appropriations to carry out the Head Start Act, the Community Services Block Grant Act, and the Low-Income Home Energy Assistance Act of 1981, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, which were referred as indicated:

EC-2643. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize certain military activities of the Department of Defense; to the Committee on Armed Services.

EC-2644. A communication from the Director, Joint Staff, Department of Defense, transmitting, pursuant to law, a report of a delay in submission of a force readiness assessment; to the Committee on Armed Services.

EC-2645. A communication from the Principal Deputy Under Secretary of Defense, transmitting, pursuant to law, a notice of a delay in submission of a report relative to officer personnel management; to the Committee on Armed Services.

EC-2646. A communication from the Principal Deputy Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the ASAS major defense acquisition program; to the Committee on Armed Services.

EC-2647. A communication from the Principal Deputy Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report with respect to the Titan IV major defense acquisition program; to the Committee on Armed Services.

EC-2648. A communication from the Principal Deputy Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the C-17 major defense acquisition program; to the Committee on Armed Services.

EC-2649. A communication from the Principal Deputy Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the Javelin (AAWS-M) major defense acquisition program; to the Committee on Armed Services.

EC-2650. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relative to the proposed obligation of funds to assist the Russian Federation in the area of export controls; to the Committee on Armed Services.

EC-2651. A communication from the Principal Deputy Under Secretary of Defense (Acquisition and Technology), transmitting, pursuant to law, a report relative to the AN/SQQ-89 major defense acquisition program; to the Committee on Armed Services.

EC-2652. A communication from the Acting Deputy Assistant Secretary of Defense (Production Resources), transmitting, pursuant to law, a report relative to strategic and critical materials for fiscal year 1993; to the Committee on Armed Services.

EC-2653. A communication from the Acting General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend title 10, United States Code, to authorize the Secretary of Defense to determine the control of authorized strengths for certain active duty commissioned officers; to the Committee on Armed Services.

EC-2654. A communication from the Director of the Federal Emergency Management Agency, transmitting, a draft of proposed legislation to authorize appropriations for civil defense programs for fiscal year 1995; to the Committee on Armed Services.

EC-2655. A communication from the Executive Director of the Thrift Depositor Oversight Protection Board and the Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, a report relative to the activities of the RTC, FDIC and the TDOPB for the six month period from October 1, 1993 through March 31, 1994; to the Committee on Banking, Housing and Urban Affairs.

EC-2656. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the safety conditions of systems which have been under investigation; to the Committee on Banking, Housing and Urban Affairs.

EC-2657. A communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in her possession from October 1, 1993 through March 31, 1994; ordered to lie on the table.

EC-2658. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report relative to rescissions and deferrals dated May 1, 1994; pursuant to the order of January 30, 1994, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Armed Services, to the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, Science and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Small Business.

EC-2659. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report relative to the Federal Home Loan Bank System dated, April 1, 1994; to the Committee on Banking, Housing and Urban Affairs.

EC-2660. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report relative to private enforcement of the Fair Housing Initiatives Program, dated April 1994; to the Committee on Banking, Housing and Urban Affairs.

EC-2661. A communication from the Deputy and Acting CEO of the Resolution Trust Corporation, transmitting, pursuant to law, the Corporation's semiannual comprehensive litigation report for the period from October 1, 1993 to March 31, 1994; to the Committee on Banking, Housing and Urban Affairs.

EC-2662. A communication from the Secretary of Housing and Urban Affairs, transmitting, a draft of proposed legislation to reduce homelessness, reform public housing, expand and preserve affordable housing and homeownership, ensure fair housing for all, empower communities, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

EC-2663. A communication from the Deputy and Acting CEO of the Resolution Trust Corporation, transmitting, pursuant to law, the Corporation's semiannual report on professional conduct investigations for the period June 30, 1993 to December 31, 1993; to the Committee on Banking, Housing and Urban Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred of ordered to lie on the table as indicated:

POM-484. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; ordered to lie on the table.

"HOUSE JOINT RESOLUTION NO. 86

"Whereas, the Safe Drinking Water Act Amendments of 1986, as passed by the Congress of the United States, mandated a significance increase in resource commitments by the owners and operators of public water supply systems and by state regulatory agencies, such as the Virginia Department of Health; and

"Whereas, the effect of these mandates has been most severely felt by the small water system owners and operators and ultimately by their customers through increased rates; and

"Whereas, the vast majority of the public water systems in Virginia are small systems that serve fewer than 3,300 persons; and

"Whereas, the Virginia Department of Health must promulgate regulations at least as stringent as those of the United States Environmental Protection Agency (EPA) in order to retain regulatory primacy; and

"Whereas, rules issued by the EPA in accordance with the 1986 Amendments are frequently burdensome, costly, and of marginal public health benefit, especially as they are applied to small water systems; and

"Whereas, a Virginia Department of Health study estimated that a 200 percent increase in state resources in needed to fully implement the EPA regulations promulgated to comply with the 1986 Amendments; and

"Whereas, the Congress has begun the process of reauthorizing the Safe Drinking Water Act, and several bills relating to the Act have been introduced in both houses; and

"Whereas, among the bills introduced is House Resolution 3392, which addresses the concerns of the owners and operators of small water systems in the Commonwealth, who are attempting to serve and protect the health of their customers; now, therefore, be it

Resolved, by the House of Delegates, the Senate concurring, That the General Assembly urge the Congress to ensure that safe drinking water regulations promulgated by the EPA in compliance with the 1986 Amendments by both necessary to the public health and cost effective; and, be it

Resolved further, That the General Assembly further memorialize the Congress to consider favorably the provisions of HR 3392 in its deliberations leading to the re-authorization of the Safe Drinking Water Act; and, be it

Resolved finally, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia."

POM-485. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; ordered to lie on the table.

POM-486. A resolution adopted by the Township of Denville, New Jersey relative to military appropriations; to the Committee on Appropriations.

POM-487. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Armed Services.

"HOUSE JOINT RESOLUTION NO. 53

"Whereas, in 1991, the nation experienced 320,000 accidents involving large trucks,

which caused 111,000 injuries and 4,800 fatalities; and

"Whereas, in Northern Virginia, the problem is acute, often with fiery crashes involving large trucks, many of them on the extremely congested Capitol Beltway, causing numerous injuries, frequent loss of life, and legendary traffic jams; and

"Whereas, according to the American Trucking Association, truck drivers' succumbing to drowsiness, fatigue, and the hypotism of the road is a major cause of many of these accidents; and

"Whereas, technology originally developed for the military holds the promise of alleviating the problem of driver fatigue, and a consortium consisting of a defense contractor, the American Trucking Association, truck manufacturers, fleet operators, and academicians has adapted a system originally designed for military use to reduce truck accidents caused by driver fatigue or inattention; and

"Whereas, using radar systems now utilized in military avionics and guidance systems, combined with computer software designed for automatic target recognition, the consortium has designed a guidance system for commercial trucks that would both assume control of a truck heading into danger and alert the driver to reassume control; and

"Whereas, the consortium is seeking funding, in the amount of $3.5 million, to develop a prototype of the truck-safety system from the Department of Defense, through its Advanced Research Projects Agency, and offering to match the Agency's funding, which would come from the Technology Reinvestment Program budget; and

"Whereas, the development of a much needed truck-safety device, which could well prevent accidents and save lives, is an entirely appropriate use of funds earmarked for defense conversion through the Technology Reinvestment Program, created in 1993 to help defense contractors find new, nonmilitary markets for their technology and resources; now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring*, That the Congress be hereby memorialized to urge the Department of Defense, through its Technology Reinvestment Program, to provide the requested funding for the development of this potentially most useful truck-safety device; and, be it

"*Resolved further*, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly on this issue."

POM-488. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Armed Services.

"JOINT RESOLUTION MEMORIALIZING THE U.S. CONGRESS AND THE U.S. SECRETARY OF DEFENSE TO ESTABLISH TWO DEFENSE FINANCE AND ACCOUNTING SERVICE CENTERS IN THE STATE

"Whereas, there is now under consideration by the United States Secretary of Defense a proposal to consolidate the existing defense finance and accounting service centers throughout the world; and

"Whereas, states that have lost a military base because of downsizing of the United States military ought to receive primary consideration for the site of a new defense finance and accounting service center; and

"Whereas, Maine recently suffered the closure of Loring Air Force Base, which adversely affected the economies of many of the State's communities and the overall economic health of the State; and

"Whereas, the closure of Pease Air Force Base had a similar adverse impact on Maine and its citizens; and

"Whereas, the criteria considered by the United States Department of Defense are cost to the federal government, the availability of a good labor force and maintenance of service; and

"Whereas, Maine offers a highly productive and skilled workforce; a low cost of living; one of the 2 best fiber optic networks in the United States; a high quality of life because of the combination of a clean environment, 3,000 miles of coastline, mountains, and one of the lowest crime rates in the country; international airports and port facilities; and numerous private and public institutions of higher learning; and

"Whereas, the Federal Government recently renovated and upgraded communications systems and general infrastructure of the former Loring Air Force Base at a cost of millions of dollars; and

"Whereas, the former site of Loring Air Force Base and the City of Bangor offer excellent sites for these centers and both locations can be easily adapted to the needs of the Department of Defense; and

"Whereas, for all of these reasons, as well as the State's long and distinguished commitment to defense and national security interests, we believe that it would be in the best interest of the United States Department of Defense to locate 2 of its proposed finance and accounting service centers within Maine; now, therefore, be it

Resolved, That We, your Memorialists, respectfully urge and request the United States Secretary of Defense and the United States Congress to locate 2 defense finance and accounting centers in Maine; and be it further

Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States; the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; the Secretary of Defense; the Honorable John R. McKernan, Jr., Governor of the State of Maine; and each member of the Maine Congressional Delegation.

POM-489. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Armed Services.

"JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE U.S. CONGRESS TO SUPPORT MILITARY AND CIVILIAN DUAL-USE OF MILITARY FACILITIES

"Whereas, changes in national security interests have caused changes in the status of military facilities in the United States, to include closure, realignment and reduction in mission; and

"Whereas, future changes are likely to occur that will potentially affect military facilities in Maine; and

"Whereas, it is in the national security interest of the United States to preserve defense infrastructure during times of peace; and

"Whereas, the closure, realignment or reduction in the mission of military facilities may have a long-term impact on national security; and

"Whereas, military and civilian dual-use planning for military facilities is an effective method to preserve physical infrastructure and labor-force skills; and

"Whereas, the current base closure and realignment process discourages the State, communities, workers and businesses from working in partnership to develop military and civilian dual uses of military facilities; and

"Whereas, it is in our national interest to address disincentives or barriers to military and civilian dual use of military facilities, including disincentives caused by the base closure or realignment selection criteria; now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully urge Maine's Congressional Delegation to convey the concerns contained in this memorial to the House Armed Services Committee and the Senate Armed Services Committee of the United States Congress, the President of the United States and the Secretary of Defense; and be it further

"*Resolved*, That Maine's Congressional Delegation advocate for changes to the base closure and realignment process to provide incentives for communities and military facilities to undertake military and civilian dual-use initiatives, including, but not limited to, positive military point value being assigned to military facilities that have undertaken dual-use planning to preserve physical infrastructure and work-force skills during times of peace; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable William J. Clinton, President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

POM-490. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Banking, Housing, and Urban Affairs.

"HOUSE JOINT RESOLUTION 155

"Whereas, the Commonwealth of Virginia promotes personal responsibility and self-sufficiency through a community-based approach for individuals receiving public assistance; and

"Whereas, some families that receive public assistance reside in public housing that is subsidized through state and federal housing programs or receive housing subsidies; and

"Whereas, welfare recipients who make the transition from public assistance to self-sufficiency frequently begin employment at minimum wage or part-time jobs; and

"Whereas, there are costs to an employee of becoming employed and sustaining that employment, such as transportation and suitable clothing, in addition to ordinary living expenses; and

"Whereas, individuals who receive public assistance have severely limited financial resources; and

"Whereas, welfare recipients who enter employment have minimal discretionary funds and are particularly vulnerable to financial emergencies; and

"Whereas, recipients who reside in federal public housing or who receive federal housing subsidies may have income from employment immediately applied to their financial obligation for rent; and

"Whereas, the immediate increase in a family's obligation for housing expenses can be a disincentive to becoming employed because the family realizes no increase in disposable income; and

"Whereas, the increase in housing costs for families may create serious financial stress and place recipients at risk of losing their jobs and self-sufficiency; and

"Whereas, the federal government operates housing subsidy programs through the United States Department of Housing and Urban Development; and

"Whereas, that agency has not taken steps to encourage self-sufficiency through more gradual rest increases for welfare recipients who become employed; now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring*, That the Congress of the United States be requested to allow greater flexibility in the consideration of income for newly employed welfare recipients when determining the recipient's rent costs, in order to promote long-term independence and self-sufficiency; and, be it

"*Resolved further*, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the members of the Virginia Congressional Delegation, and the Secretary of the United States Department of Housing and Urban Development, that they may be apprised of the sense of the General Assembly of Virginia in this matter."

POM-491. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Energy and Natural Resources.

"HOUSE CONCURRENT RESOLUTION 31

"Whereas, Congress recognized the northern forest region of Maine, New Hampshire, Vermont, and New York when the northern forest lands study was authorized in 1988; and

"Whereas, the governor of the state of New Hampshire recognized the importance of this effort when he appointed the New Hampshire members of the governors' task force on northern forest lands in 1988; and

"Whereas, this commitment was extended when the governor of the state of New Hampshire appointed the New Hampshire members of the northern forest lands council in 1991; and

"Whereas, the council's purpose is to study and issue recommendations to the 4 states' governors and congressional delegations on how to "reinforce the traditional patterns of land ownership and use that have characterized the northern forest region, enhance the quality of life for local residents through the promotion of economic stability, encourage the production of a sustainable yield of forest products, and protect recreational, wildlife, scenic and wildland resources" in a region of 26 million acres which includes most of northern New Hampshire; and

"Whereas, northern New Hampshire is supported by an economy closely associated with the land and its varied products, and includes some of the state's most productive forests and farms, pristine wild areas, clean water, habitat for a diversity of game and non-game wildlife, and both public and private lands for outdoor recreation; and

"Whereas, the council will issue final recommendations in July, 1994 that will establish a framework for the state to address some of northern New Hampshire's most pressing social and environmental problems and opportunities; now, therefore be it

"*Resolved by the House of Representatives, the Senate concurring:* That the general court of the state of New Hampshire shall give due consideration to the rights and interests of the people of northern New Hampshire, with respect to any final recommendations of the northern forest lands council, and shall commit itself to a thorough review of these final recommendations; and

"That the general court call upon the New Hampshire congressional delegation in deliberation of the recommendations of the northern forest lands council, to give due consideration to the rights, interests and well-being of the people of northern New Hampshire, and to respect the right of self-determination that must underlie any successful resolution of the problems and opportunities arising from the issuance of the council's final report; and

"That copies of this resolution be forwarded by the clerk of the house to the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives, and to each member of the New Hampshire congressional delegation."

POM-492. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on Energy and Natural Resources.

"ENROLLED JOINT RESOLUTION NO. 1.

"Whereas, the Federal Oil Pollution Act of 1990 financial responsibility section 4303 expands financial responsibility from thirty-five million dollars ($35,000,000.00) to one hundred fifty million dollars ($150,000,000.00) liability for each petroleum product facility, and expands coverage to all facilities in, on, or under navigable waters of the United States; and

"Whereas, the definition of navigable waters encompasses vast new areas of the United States beyond the historic purview of the Federal Mineral Management Service; and

"Whereas, there is no recognition in the act for the relative environmental risk posed by these various facilities; and

"Whereas, these provisions will likely create public opposition to these environmental safeguards and thus defeat the worthy purposes for which they were intended.

"*Now, therefore, be it resolved by the members of the legislature of the State of Wyoming:*

"Section 1. That the Wyoming legislature respectfully requests the Secretary of the Interior to represent these concerns directly to the chairman of the appropriate congressional authorizing committee to correct the situation, including, but not limited to, proposing corrective legislation to the existing law. Further, that the Wyoming legislature requests the Secretary of the Interior to proceed with the utmost care and with the fullest public participation.

"Section 2. That actions be taken to assure that the Federal Oil Pollution Act of 1990 be implemented in a way that brings about the underlying purpose of the act, ensuring that those engaged in oil operations on the Outer Continental Shelf historically within the jurisdiction of the Federal Mineral Management Service demonstrate the amount of financial responsibility commensurate with the relative oil spill risk posed by each facility.

"Section 3. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the Secretary of the Interior and to the Wyoming Congressional Delegation."

POM-493. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Environment and Public Works.

"Whereas, the City of Chesapeake, Virginia, is seeking a $9.5 million authorization for funding from the U.S. Congress through the House Public Works Committee Authorization Bill for South Battlefield Boulevard (State Route 168); and

"Whereas, South Battlefield Boulevard is the major link between the I-95-64 corridor to the resort beaches of North Carolina's Outer Banks; and

"Whereas, the present 10-mile length of the two lane highway carries three times its design capacity; and

"Whereas, eighty percent of the traffic is generated from outside of the corridor, this through traffic causes severe congestion for local citizens and emergency response teams (police, fire, and emergency medical services); and

"Whereas, since this route serves as the emergency evacuation route for the Outer Banks during hurricane emergencies, South Battlefield Boulevard becomes almost impassable as motorists evacuate the beaches; and

"Whereas, the project is among the top critically needed, yet unfunded, projects in Hampton Roads and the Commonwealth and is part of the proposed National Highway System; and

"Whereas, the city is requesting authorization for funding from the House Public Works Committee for $4 million for engineering design costs and $5.5 million for right-of-way acquisition costs; and

"Whereas, the project has long-standing support at the local, regional and state levels as well as from the adjacent North Carolina Counties of Dare and Currituck; now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring,*

"That the Congress of the United States be hereby requested to provide funding through the House Public Works Committee Authorization Bill, for $9.5 million that is needed for improvements to South Battlefield Boulevard in Chesapeake, Virginia; and, be it

"*Resolved further*, That the Clerk of the House of Delegates transmit a copy of this resolution to the Speaker of the House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation in order that they may be apprised of the sense of the General Assembly of Virginia in this matter."

POM-494. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Environment and Public Works.

"Whereas, a modern, well-maintained, efficient, and interconnected transportation system is vital to the economic growth and health and the global competitiveness of the Commonwealth and the entire nation; and

"Whereas, the highway network is the backbone of a transportation system for the movement of people, goods, and intermodal connectivity; and

"Whereas, it is critical to address highway transportation needs effectively through appropriate transportation plans and program investments; and

"Whereas, the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) established the concept of a 155,000-mile National Highway System (NHS) which includes the Interstate System; and

"Whereas, on December 9, 1993, the United States Department of Transportation transmitted to Congress a 159,000-mile Proposed National Highway System which identified 104 port facilities, 143 airports, 191 rail-truck terminals, 321 Amtrak stations and 319 transit terminals; and

"Whereas, ISTEA requires that the NHS and Interstate Maintenance funds not be re-

leased to the States if the system is not approved by September 30, 1995; and

"Whereas, the uncertainty associated with the future of the National Highway System precludes the possibility of the state's effectively undertaking necessary and properly developed planning and programming activities; now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring,*

"That the Congress of the United States be urged to accelerate the process of developing and approving the National Highway System and that the Congress of the United States should pass legislation which designates and approves the National Highway System no later than September 30, 1994; and, be it

"*Resolved further,* That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia in this matter."

POM-495. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Finance.

"Whereas, 38 million Americans were without health insurance at some time in the last year, many while between jobs or while employed in jobs that did not offer health insurance; and

"Whereas, the rising costs of health care threaten access for even those currently insured, particularly as escalating costs force employers to trim the level and availability of health care benefits to their employees; and

"Whereas, employer contributions to employee group health insurance are presently fully exempt from federal income tax; and

"Whereas, insurance purchased by individuals outside of employer groups, by the unemployed, the self-employed, the part-time employed, and those otherwise unable to obtain group coverage through their employer, is limited to at most a 25 percent exemption; and

"Whereas, even this smaller benefit to individuals has at times been threatened with removal; and

"Whereas, those without access to employer coverage are likely to be more in need of subsidy to afford insurance; and

"Whereas, aside from need, fairness suggests that those without access to employer coverage be accorded the same tax privileges for their health insurance purchases as those available within employer groups; and

"Whereas, the continuation of a differential benefit to employer-sponsored health insurance may contribute to the perpetuation of a system that adversely affects worker mobility, since employer coverage is not portable and coverage outside an employer group is prohibitively expensive; and

"Whereas, this arrangement may also limit individual choice of health coverage to the levels and forms of insurance chosen by the employer; and

"Whereas, the form of health insurance known as medical care savings accounts, combining high-deductible insurance policies with dedicated funds to meet insurance expense, may offer a fruitful mechanism to control spending and spur consumer responsibility for health care choices, by forcing health services purchasers to consider the full cost of services for expenses under their deductibles; and

"Whereas, the present system of tax privileges does not extend exemption to contributions to a dedicated savings account for medical purposes, except for the current Flexible Spending Accounts under §125 of the Federal Tax Code; and

"Whereas, §125 account funds must be used by the end of the tax year or forfeited undermining consumer incentives to save; and

"Whereas, the Clinton Health Security Act proposes to eliminate §125 accounts; and

"Whereas, states like Virginia that practice strict federal conformity are bound to accept the federal determination of taxable income and exemptions therefrom, or else engender the substantial costs of independent monitoring and enforcement for Tax Code compliance; and

"Whereas, changes in state tax policy alone might not yield enough substantial benefits to induce appropriate changes in insurance coverage, given that a state can only provide exemptions from its own levies; now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring,*

"That the Congress of the United States be requested to enact legislation which makes the tax privileges accorded to health insurance purchased by individuals outside of employer groups equivalent to that available within employer groups; and to enact legislation which makes the tax privileges accorded to medical care savings accounts equivalent to that accorded other forms of health insurance; and, be it

"*Resolved further,* That the Clerk of the House transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and all members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly."

POM-496. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Finance.

"Whereas, the dependent care tax credit is a tax subsidy reducing the child care costs of working families; and

"Whereas, the size of the credit depends upon a family's income, the number of dependents in child care, and the size of the family's child care cost; and

"Whereas, the family receives an income tax credit of 30 percent down to 20 percent for a portion of its child care or dependent care costs, depending on the family's adjusted gross income; and

"Whereas, this credit may fail to assist the very group that needs child care assistance the most, working poor families, because it is not refundable; and

"Whereas, unlike the earned income credit which is refundable, those too poor to owe income tax receive no refund or other subsidy payment; and

"Whereas, by contrast, families at higher income levels may benefit from the credit, which lowers their income tax liability; now, therefore, be it

"*Resolved by the House of Delegates, the Senate concurring,*

"That the Congress of the United States be requested to make dependent care tax credits refundable to provide support to the working poor families. Making this tax credit refundable supports the income-related strategy of "making work pay." Due to the substantial child care costs that exist today, it is critical to defray some of those costs to move full-time working families out of poverty to self-sufficiency; and, be it

"*Resolved further,* That the Clerk of the House of Delegates transmit copies of this resolution for distribution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the members of the Virginia Congressional Delegation, and the Secretary of the United States Department of Health and Human Services to apprise them of the sense of the General Assembly of Virginia.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science and Transportation:

Lauri Fitz-Pegado, of Maryland, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, vice Susan Carol Schwab, resigned.

T.R. Lakshmanan, of New Hampshire, to be Director of the Bureau of Transportation Statistics, Department of Transportation, for the term of four years expiring June 14, 1996. (New Position.)

Rachelle B. Chong, of California, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1992, vice Sherrie Patrice Marshall, resigned.

Susan Ness, of Maryland, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 1994, vice Ervin S. Duggan, resigned.

Susan Ness, of Maryland, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1994. (Reappointment.)

William D. Hathaway, of Maine, to be a Federal Maritime Commissioner for the term expiring June 30, 1998. (Reappointment.)

Joe Scroggins, Jr., of Florida, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1995, vice Christopher L. Koch, resigned.

Carrye Burley Brown, of the District of Columbia, to be Administrator of the United States Fire Administration, vice Olin L. Greene, Jr., resigned.

Arnold Gregory Holz, of Maryland, to be Chief Financial Officer, National Aeronautics and Space Administration. (New Position.)

Rear Admiral Robert E. Kramek, U.S. Coast Guard, to be Commandant, United States Coast Guard, for a term of four years with the grade of admiral while so serving.

The following officer of the U.S. Coast Guard, to be Vice Commandant, United States Coast Guard, with the grade of vice admiral while so serving: Rear Adm. Arthur E. Henn.

The following officer of the U.S. Coast Guard, to be Chief of Staff, United States Coast Guard, with the grade of vice admiral while so serving: Rear Adm. Kent H. Williams.

The following officer of the U.S. Coast Guard, to be Commander, Atlantic Area, United States Coast Guard, with the grade of vice admiral while so serving: Rear Adm. James M.Loy.

The following officer of the U.S. Coast Guard, to be Commander, Pacific Area, United States Coast Guard, with the grade of vice admiral while so serving: Rear Adm. Richard D. Herr.

The following officer of the United States Coast Guard Reserve for appointment to the grade of rear admiral: Robert E. Sloncen.

The following officer of the United States Coast Guard Reserve for appointment to the

grade of rear admiral (lower half): Richard W. Schneider.

The following officers of the United States Coast Guard for appointment to the grade of rear admiral: Roger T. Rufe. Jr., and Howard B. Gehring.

Rear Admiral John C. Albright for appointment to the grade of rear admiral (lower half), while serving in a position of importance and responsibility as Director, Pacific Marine Center, National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u.

(The above nomination was approved subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably four nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORD of October 14, 1993 and February 22 and April 11, 1944, and a list in the National Oceanic and Atmospheric Administration which was printed in full in the CONGRESSIONAL RECORD of April 11, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

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. DORGAN (for himself and Mr. DASCHLE):

S. 2118. A bill to improve the national crime database and create a Federal cause of action for early release of violent felons; to the Committee on the Judiciary.

By Mr. BREAUX (for himself, Mr. LOTT, Ms. MIKULSKI, Mr. INOUYE, Mr. STEVENS, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 2119. A bill to prohibit the imposition of additional fees for attendance by United States citizens at the United States Merchant Marine Academy; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. PACKWOOD, Mr. BREAUX, Mr. MATHEWS, Mr. AKAKA, Mr. BINGAMAN, Mr. DODD, Mr. DURENBERGER, Mr. GORTON, Mr. GRAHAM, Mr. HATFIELD, Mr. KENNEDY, Mr. LEVIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REID, and Mr. WOFFORD):

S. 2120. A bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JOHNSTON (by request):

S. 2121. A bill to promote entrepreneurial management of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COHEN:

S. 2122. A bill to improve the public and private financing of long-term care and to strengthen the public safety net for elderly and non-elderly disabled individuals who lack adequate protection against long-term care expenses, and for other purposes; read the first time.

By Mr. DORGAN (for himself and Ms. MIKULSKI):

S. 2123. A bill to prohibit insured depository institutions and credit unions from engaging in certain activities involving derivative financial instruments; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 2124. A bill to provide development of power at the Mancos Project and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WELLSTONE:

S. Res. 214. A resolution on health care for Members of Congress and for the American people; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself and Mr. DASCHLE):

S. 2118. A bill to improve the national crime database and create a Federal cause of action for early release of violent felons; to the Committee on the Judiciary.

VIOLENT CRIME INTERVENTION ACT OF 1994

Mr. DORGAN. Mr. President, I am today offering, on behalf of myself and Senator DASCHLE, from South Dakota, legislation dealing with crime. I wanted to say a few words about it before I introduce it.

Mr. President, as the Senate-House conference committee works on a final crime bill, I would like to address two of the major reasons our Nation is facing a crime epidemic and propose what the Federal Government can do to stop it.

As we heard on this floor last November when the Senate debated our crime bill, America's violent crime rate has risen to unprecedented levels. In 1992, the Federal Bureau of Investigation [FBI] reported that 23,760 murders occurred in the United States. That's 10 times the homicide rate of Japan or France, 13 times the homicide rate of England, and 5 times the rate of our neighbors to the north, Canada.

And this picture is not limited to homicides. The FBI also reported that 109,062 forcible rapes, 676,478 robberies, and 1,126,974 aggravated assaults occurred in the United States in 1992. These numbers translate into a 19-percent increase in violent crime since 1988. Even more troubling, roughly half of the violent crimes in this country are not reported to law enforcement and therefore are excluded from these FBI statistics.

These shocking statistics are no surprise to most Americans. Almost all of us have been affected by violent crime. It's no wonder that controlling violent crime has become the most important issue for our constituents.

A major reason we face this epidemic is that our State criminal justice systems put violent criminals back onto our streets and into our communities before they have served their full sentence. Parole and other early release programs allow convicted criminals to commit additional crimes against innocent victims. According to a Brookings Institution study, the typical violent offender commits 12 serious crimes—not including drug crimes—every year they are on the street. Is it any wonder that we have one of the highest violent crime rates in the world?

Even if a violent criminal is arrested, prosecuted, convicted, and sentenced, he or she probably will spend only a fraction of that sentence behind bars. Nationwide, violent offenders receive an average sentence of almost 8 years, but actually serve less than 3. For the ultimate violent crime, murder, the average sentence imposed by State courts is 17 years. But killers serve only 7. An average of 7 years in prison seems insufficient for a crime in which the victim's sentence quite literally is life.

Mr. President, I understand there are many sources of this desperate situation. Drug abuse, broken families, lack of job opportunities—we are all familiar with the long sad list. We have to address those problems, but we can't wait until they're solved. Unless the States start to keep violent prisoners locked up for their full sentence, violent crime will continue.

A large number of violent criminals are back in the community because State laws or fiscal priorities actually promote their early release. Some fault for the current situation also lies in the poor reliability of criminal records. Violent criminals often get off with light sentences or are released early because a sentencing judge or parole board lacked a complete picture of the individual's criminal history.

Most criminal justice is dispensed at the State level. More than 90 percent of criminal offenders are prosecuted in State courts and sentenced to State prisons. Unlike the Federal system, where criminals generally serve most of their sentences behind bars, States often release their violent criminals after serving only a fraction of their sentences.

But violent crime in this country cannot be defined as simply a State problem. Violent crime does not respect State boundaries. Just look at the violent crime against tourists in Florida. The victims are not Florida residents, they are from other States and other countries. However, they became the victims of Florida's failure to

make its violent offenders serve their full sentences. Most of the recent attacks on tourists were committed by criminals who should have been serving time for a previous violent crime.

Mr. President, the Senate and House crime bills demonstrate the depth of concern at the Federal level about violent crime. Anyone who thinks that Washington is not serious about trying to stop violent crime should look at the level of funding—between $22 and $28 billion—that Congress and the administration are willing to spend on crime prevention, even as we try to cut spending dramatically and reduce the national debt.

I vigorously supported the Senate crime bill, which contains several amendments from a crime bill I had introduced last fall. These include a provision to change the current presumption allowing Federal prisoners automatically to receive good-time credit regardless of their actual behavior in prison. A second provision would convert closed military bases into prisons for nonviolent offenders to free up State prison space for violent criminals.

While the crime bill will be an important step in fighting crime, it does not deal with the State responsibility for maintaining most criminal records and for sentencing violent criminals. Until the States work with the Federal Government to meet these responsibilities, there will be major gaps in the crime bill. Today, I am introducing legislation that would help fill in these gaps.

Mr. President, my legislation first would address the need for an accurate, up-to-date, and complete national criminal record database. It would establish Federal standards for the system and require the States to comply with these standards within 2 years. If they didn't, they would pay a user fee each time they wanted to use the Federal system.

Every day, States and localities flood the FBI's Interstate Identification Index [III] with approximately 85,000 requests for criminal record checks. III is an essential tool for all aspects of law enforcement, from routine traffic stops to sentencing violent criminals. Despite this great need, neither III nor any other record system can provide complete and accurate information. Of the 50.5 million criminal records in this country, only 9.2 million—less than 20 percent—include case dispositions, are computerized, and are accessible to law enforcement nationwide through the III.

My legislation would establish a complete and accurate national criminal history database. It would require States to file their arrest reports and final disposition orders in criminal cases with their record repository within 21 days. State repositories would then have to enter these reports and records into the State database within 14 days. And every State database would be required to be connected to the III.

Mr. President, my legislation adopts a carrot-and -stick approach to encourage every State to join the III within 2 years so that the system can provide accurate and up-to-date information about the State's criminals

The bill would authorize $100 million in grants to States to establish or upgrade their criminal record systems so they can link up with the III. States that do not meet the recommended guidelines for interconnecting with the III would not be shut off from using the III system. That could hurt law enforcement. But they no longer could take a free ride by using the III while not providing full and complete information to the system. States that are not full participants in the III would be required to pay a user fee each time they use the system.

The second problem my legislation addresses is the early release of violent criminals. I firmly believe, as I suspect most Americans believe, that violent criminals should serve their full sentences. That is just not happening today.

There are almost 3 million criminal offenders currently on probation or parole. That's more than three times the number individuals currently locked up in prison. And according to the Bureau of Justice Statistics, 60 percent of the violent criminals released early from prison will be rearrested within 3 years, and half of those will be rearrested for a violent offense.

These repeat violent offenders are responsible for many of the most shocking crimes in the country. From young Polly Klass's murderer in California, to the two young men who murdered Michael Jordan's father in North Carolina while he napped in his car at a rest stop. this country is besieged by violent crimes that wouldn't have happened if the criminals had been serving their full sentence for a prior violent crime.

Mr. President, States simply must keep violent offenders behind bars for their full sentence, or face the consequences of their decisions to release them. The legislation I am introducing today would do this.

Under my legislation, States would be liable to victims of violent felonies committed by a criminal the State had released prior to serving his or her full prison sentence for a previous violent crime. But a State that has a law requiring those convicted of a violent crime to serve their entire, original term of imprisonment behind bars would not be liable to victims. This liability would force the States to consider the real costs that early release imposes on society. While States still would be free to release violent criminals whenever they wish, they no longer would be able to shift the cost of that decision to innocent victims.

Mr. President, the legislation I am introducing today would complement the crime bill we are currently negotiating. It would create incentives for the States to update their criminal records and to make them available to law-enforcement nationwide. It would strongly encourage States to keep violent criminals locked up for their full sentences. Together, these would be a significant step toward controlling violent crime in this Nation. I urge my colleagues to support this important measure.

I ask unanimous consent the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 2118

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 "Violent Crime Intervention Act of 1994".

TITLE I—NATIONAL CRIMINAL RECORDS DATABASE

SEC. 101. FINDINGS.

The Congress finds that—

(1) nationwide—

(A) many State criminal record systems are not up to date and contain incomplete or incorrect information; and

(B) less than 20 percent of all criminal records are fully computerized, include court dispositions, and are accessible through the Interstate Identification Index of the Department of Justice; and

(2) a complete and accurate nationwide criminal record database is an essential element in fighting crime and development of such a database and is a national urgent priority.

SEC. 102. STATE CRIMINAL RECORD UPGRADES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue guidelines establishing specific requirements for a State to qualify as a fully participating member of the Interstate Identification Index.

(b) MINIMUM REQUIREMENTS.—The guidelines referred to in subsection (a) shall require—

(1) that all arrest reports and final disposition orders are submitted to the State records repository within 21 days;

(2) the State repository to enter these records and orders into the State database not more than 14 days after the repository receives the information;

(3) the State to conduct audits, at least annually, of State criminal records to ensure that such records contain correct and complete information about every felony arrest and report the results of each audit to the Attorney General;

(4) the State to certify to the Attorney General, on January 1 of each year, that the law enforcement agencies, courts, and records officials of the State are in compliance with this section; and

(5) such other conditions as the Attorney General determines are necessary.

(c) FEES.—A State that does not qualify as a fully participating State, pursuant to the guidelines referred to in subsection (a), within 2 years after the date on which the Attorney General issues such guidelines shall pay

a user fee for each identification request made to the Interstate Identification Index in an amount equal to the average cost of a single Federal database inquiry, as determined by the Attorney General each year.

SEC. 103. AUTHORIZATION.

There are authorized to be appropriated $100,000,000 for fiscal years 1995 and 1996 to the Attorney General for grants to States to establish or improve their criminal record databases to qualify as a fully participating member of the Interstate Identification Index.

TITLE II—LIABILITY FOR EARLY RELEASE OF VIOLENT FELONS

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) violent criminals often serve only a small portion of their original sentences;

(2) a significant proportion of the most serious violent crimes committed in the United States are committed by criminals who have been released early from a sentence for a previous violent crime;

(3) violent criminals who are released early from prison often travel to other States to commit additional violent crimes;

(4) the crime and threat of crime committed by violent criminals released early from prison affects tourism, economic development, use of the interstate highway system, federally owned or supported facilities, and other commercial activities of individuals; and

(5) the policies of one State regarding the early release of criminals sentenced in that State for a violent crime often affects the citizens of other States, who can influence those policies only through Federal law.

(b) PURPOSE.—The purpose of this title is to reduce violent crime by requiring States to bear the responsibility for the consequences of releasing violent criminals before they serve the full term for which they were sentenced.

SEC. 202. CAUSE OF ACTION.

(a) IN GENERAL.—The victim (or in the case of a homicide, the family of the victim) of a violent crime shall have a Federal cause of action in any district court against a State if the individual committing the crime—

(1) previously had been convicted by the State of a violent offense;

(2) was released from incarceration prior to serving his or her full sentence for such offense; and

(3) committed the violent crime before the original sentence would have expired.

(b) EXCEPTION.—A State shall not be liable under subsection (a) if the State requires a violent criminal to be incarcerated for the entire term of imprisonment to which the criminal is sentenced.

(c) DEFINITION.—As used in this title, the term "crime of violence" has the same meaning as in section 16 of title 18, United States Code.

(d) DAMAGES.—A State shall be liable to the victim in an action brought under this title for the actual damages resulting from the violent crime, but not for punitive damages.

By Mr. BREAUX (for himself, Mr. LOTT, Ms. MUKULSKI, Mr. INOUYE, Mr. STEVENS, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 2119. A bill to prohibit the imposition of additional fees for attendance by United States citizens at the United States Merchant Marine Academy; to the Committee on Commerce, Science, and Transportation.

PROHIBITION OF FEES ON ATTENDEES OF THE MERCHANT MARINE ACADEMY

Mr. BREAUX. Mr. President, the bill I am introducing today along with my distinguished colleagues, Mr. LOTT, Ms. MIKULSKI, Mr. INOUYE, Mr. STEVENS, Mr. D'AMATO, and Mr. MOYNIHAN, would maintain existing policy and would prohibit the imposition of additional charges or fees for attendance by U.S. citizens at the U.S. Merchant Marine Academy.

I am introducing this bill in response to a recommendation in the administration's National Performance Review [NPR], which was released last fall, that proposes to begin charging tuition and fees at the Academy at Kings Point, NY, beginning with the 1995–96 academic year.

Currently, all costs at the Academy, including tuition, fees, uniforms, are paid by the Federal Government just as they are at the other Federal service academies such as the Air Force Academy and the Coast Guard Academy. As a condition of their appointment to the Merchant Marine Academy, individuals are obliged, upon graduation to: maintain a license as an officer in the U.S. merchant marine for at least 6 years; apply for an appointment to, and accept if tendered, an appointment to a reserve unit of an armed force of the United States for at least 6 years following graduation; and to serve in the foreign and domestic commerce and the national defense of the United States for at least 5 years following graduation. While the proposal in the NPR calls for the possible imposition of tuition at the Academy, it does not change the service commitment that is required as a condition of acceptance.

The Academy is an indispensable contributor to the U.S. maritime industry. In fact, 72 percent of the Academy's graduates from the last 20 years are still employed in the maritime industry.

Cutting the Academy budget in half would require that tuition of $15,000 to $16,000 be charged to make up the difference. It is unlikely that most individuals could pay that amount, since they would be unable to afford the cost of this tuition. The end result of this proposal would, therefore, ultimately be closure of the Academy. This loss would be devastating to our Nation's merchant marine, which has been already experiencing more than its share of hardships in recent years and may not be able to survive any further setbacks such as this.

Mr. President, I ask unanimous consent that the text of the bill I am introducing along with my statement be printed in the CONGRESSIONAL RECORD.

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

S. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON IMPOSITION OF ADDITIONAL CHARGES OR FEES FOR ATTENDANCE AT THE UNITED STATES MERCHANT MARINE ACADEMY.

(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance by United States citizens at the United States Merchant Marine Academy may be imposed.

(b) EXCEPTION.—The prohibition specified in subsection (a) shall not apply with respect to any item or service provided to midshipmen at the United States Merchant Marine Academy for which a charge or fee is imposed as of the date of the enactment of this Act. The Secretary of Transportation shall notify the Congress of any change made by the United States Merchant Marine Academy in the amount of a charge or fee authorized under this subsection.

Ms. MIKULSKI. Mr. President, I am happy to join Senator BREAUX today as a cosponsor of this important legislation. I am a staunch supporter of the U.S.-flag Merchant Marine and of the maritime industry in general. The industry is of vital importance to our Nation's economic and defense capabilities. Kings Point is vital to the industry.

Kings Point produces highly trained transportation specialists who know how to interact with the Armed Forces to meet our logistics requirements. Graduates have gone on to become leaders in transportation technology. They have been responsible for technological advances such as containerization, piggy backing containers on rail cars, and intelligent systems which enhance cargo handling efficiencies. With 300,000 people working in our maritime industry, we must ensure that these industries are supplied with innovative leaders for the next century.

The maintaining of full funding for Kings Point will assure that a highly qualified student body will continue to offer at least 8 years of national service in transportation and defense in exchange for their education. It will assure that the United States will have merchant marine officers and transportation managers who are trained to preserve and protect the environment. Finally, it will reaffirm our country's conviction that the sea-link is most certainly crucial to the Nation's transportation infrastructure. We must be willing to invest in manpower for this sector.

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. KERRY, Mr. PACKWOOD, Mr. BREAUX, Mr. MATHEWS, Mr. AKAKA, Mr. BINGAMAN, Mr. DODD, Mr. DURENBERGER, Mr. GORTON, Mr. GRAHAM, Mr. HATFIELD, Mr. KENNEDY, Mr. LEVIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REID, and Mr. WOFFORD):

S. 2120. A bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PUBLIC BROADCASTING ACT OF 1994

Mr. INOUYE. Mr. President, today, I am introducing the Public Broadcasting Act of 1994. This legislation authorizes funding for the Corporation for Public Broadcasting [CPB] for fiscal years 1997 through 1999. It continues the tradition of advance funding for the Public Broadcasting System so that key long-term planning decisions can be made. This advance-year funding is critical to the overall stability of our Nation's Public Broadcasting system.

In 1967, the Corporation for Public Broadcasting was established by congress "* * * [to] help make public broadcasting available to all citizens * * * and to afford maximum protection to such broadcasting from extraneous interference and control." In the 25 years since its creation, the Public Broadcasting System has grown and matured. Even with the increased number of programming services, it is largely responsible for much of the high-quality, educational, informational, and entertainment radio and television programming we have today.

The CPB and public broadcasters have built a nationwide system in which close to 90 percent of the American households have access to a Public Radio signal and nearly 100 percent of households have access to a public television signal.

The legislation I am introducing today reauthorizes funding for the CPB in the amount of $425 million for fiscal years 1997 through 1999. This amount is identical to the level authorized for the CPB for fiscal year 1996.

Unlike most previous years, this legislation does not increase the authorized funding levels for the CPB. This legislation will, however, allow public broadcasting stations to maintain the level of high-quality programming they provide today. I believe that this legislation properly balances the needs of Public Broadcasters with the need to show fiscal responsibility.

The CPB supports the production and distribution of nationally recognized radio and television programs such as, "All Things Considered," "Sesame Street," "American Playhouse," "Great Performances," and "The MacNeil/Lehrer Newshour." These programs have and will continue to make significant contributions to our society.

The CPB allocates a large percentage of its funds to enhance programming by and for minorities and traditionally unserved areas. By supporting the Independent Television Service [ITVS] and the five minority consortia, Public Broadcasting has enabled Americans to explore important social issues and experience a wide variety of opinions and ideas. I encourage the CPB and its member stations to continue their commitment to these entities.

Public Broadcasting has a history of innovation that has broadened the reach of television to many of our Nation's citizens. For instance, Public Television provides closed-captioning for the hearing-impaired, and descriptive video services [DVS], an optional audio narration track for the sight-impaired. And for Spanish-speaking citizens, the "MacNeil/Lehrer News Hour" airs in many communities with a Spanish language soundtrack. Innovative services like these are important as our society becomes more diverse.

Public Broadcasting's efforts in education, advanced technology, and program development continue to set the standard for commercial broadcasting. For instance, in the area of education, Public Television has shown itself to be one of the most economical and efficient mechanisms for distributing educational information to our homes and schools. Public Television stations are providing their local schools and State educational institutions with technical expertise and quality programs to supplement classroom instruction. Nationwide, Public Television is the largest contributor of video and televised instructional materials for schools, colleges, and home viewers in the country. Public Television reaches over 29 million students in nearly 70,000 schools, grades K through 12. Close to 2 million teachers use Public Educational Services provided by Public Television.

The Satellite Educational Resources Consortium [SERC] is another example of how Public Broadcasting is using its resources for education. SERC is a 23-state partnership of educators and public broadcasters that helps schools to meet the needs of their students through live interactive satellite delivered courses. Because of efforts like these, two-thirds of America's colleges now use Public Broadcasting System courses and 2 million adults have earned college credit from Public Television.

Furthermore, the Public Broadcasting System plans to devote considerable efforts to develop and implement programs and activities as required by the Ready-to-Learn Act.

The CPB coordinates systemwide planning and conducts research to help the Public Broadcasting System keep up with new technologies and fluctuating financial conditions. For instance, many Public Radio and Television stations are exploring new ways to manage their administrative and technical processes to achieve greater efficiencies. Some are discussing ways to consolidate their stations and share resources. I applaud the efforts of these stations to become more efficient and eliminate duplicate program coverage.

I also encourage the stations to give serious thought to the 1993 report of the Twentieth Century Fund. The Twentieth Century Fund formed a task force to examine the mission, role, funding and accountability of Public Television in the 1990's and beyond. The task force compiled a list of recommendations for how to maintain a strong public television system. I urge public broadcasting stations to move forward on the recommendations included in this report.

In 1992, Congress directed the CPB to increase public participation in noncommercial broadcasting. In response to this mandate, the CPB launched "open to the public," a series of mechanisms—public hearings, town meetings, national polls and regional surveys, a dedicated post-office box and a toll-free number—for measuring and assessing public perceptions of Public Broadcasting. It is designed to provide easily accessible conduits through which the American people can share their comments and express their concerns about Public Broadcasting. I support these measures and I urge the CPB to continue to seek ways to provide an open and accountable decisionmaking process.

Mr. President, I thank you for the opportunity to renew my support for Public Broadcasting. I believe this legislation wisely allocates Federal funding to assist the CPB. I urge my colleagues on both sides of the aisle to join me in supporting the reauthorization for the Corporation for Public Broadcasting.

By Mr. JOHNSTON (by request):

S. 2121. A bill to promote enterpreneurial management of the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL PARK SERVICE ENTREPRENEURIAL MANAGEMENT REFORM ACT

Mr. JOHNSTON. Mr. President, at the request of the Department of the Interior, I send to the desk a bill to promote entrepreneurial management of the National Park Service, and for other purposes".

I ask unanimous consent that the bill, the communication, and a summary prepared by the National Park Service which accompanied the proposal be printed in the CONGRESSIONAL RECORD.

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

S. 2121

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 Park Service Entrepreneurial Management Reform Act".

SEC. 2. FINDINGS.

(a) FINDINGS.—In furtherance of the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2–4), which directs the Secretary of the Interior to administer ares of the National Park System in accordance with the fundamental purpose of conserving the scenery, wildlife, natural and historic objects, and providing for their enjoyment in a manner that will leave them unimpaired for the

enjoyment of future generations, the Congress finds that—

(1) management of the National Park System requires entrepreneurial strategies that will enable the National Park Service to meet the increasing demands placed on the System by the American public; and

(2) in order to preserve the natural and cultural resources of the System for future generations and provide for appropriate enjoyment of those resources, the National Park Service must increase revenues by reforming the nature, level and collection of fees, and increasing voluntary donations and partnerships.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "park" means a unit of the National Park System; and

(2) "Secretary" means the Secretary of the Interior.

SEC. 4. FEES.

(a) ADMISSION FEES.—

(1) IN GENERAL.—The Secretary shall establish reasonable admission fees to be charged at units of the National Park System where the Secretary determines that such fees are appropriate and feasible.

(2) ANNUAL PASSES.—For admission or entrance into any unit of the National Park System designated by the Secretary pursuant to this section, or into several specific units located in a particular geographic area, or for entrance to all units where an admission fee is charged, the Secretary is authorized to make available annual admission permits for reasonable fees to be determined by the Secretary.

(3) SINGLE VISITS.—The Secretary shall establish reasonable admission fees for a single visit at any unit of the National Park System designated by the Secretary pursuant to this section for persons who choose not to purchase an annual pass.

(b) RECREATION USE FEES.—The Secretary shall establish reasonable fees for specialized outdoor recreation sites, facilities, equipment, or services that are provided or furnished at Federal expense.

(c) SPECIAL PARK USES.—The Secretary shall establish reasonable fees for uses of park units that require special arrangements including permits. The fees shall cover all costs of providing necessary services associated with special uses and shall be credited to the appropriation current at that time.

(d) RETENTION OF FEES.—(1) Except as provided below, fees collected pursuant to subsections 4 (a) and (b) of this Act shall be deposited in the special fund account established in Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 1-6a(i)(4))

(2) Notwithstanding any other provision of law, beginning in fiscal year 1995 and thereafter, an amount equal to 15 percent of the total fees collected in the immediate preceding fiscal year pursuant to subsections 4 (a) and (b) shall be deducted from the current year collections and shall be deposited into a special fund established in the Treasury of the United States titled "Fee Collection Support—National Park System" and shall be available to the Secretary without further appropriation to cover the costs of collection of the fees, to remain available until expended.

(3) Notwithstanding any other provision of law, beginning in fiscal year 1996 and thereafter, 50 percent of the difference in additional receipts collected during the immediate preceding fiscal year as compared to total receipts collected in fiscal year 1993 shall be deducted from the current year collections and shall be covered into a special fund established in the Treasury of the United States titled "National Park Renewal Fund", and shall be available to the Secretary without further appropriation for infrastructure needs at parks, including but not limited to facility refurbishment, repair and replacement, resource protection, interpretive/educational media (exhibits), and other infrastructure projects beneficial to park resources, to remain available until expended.

(4) In fiscal year 1995 only, fees authorized to be collected pursuant to subsections 4 (a) and (b) of this Act may be collected only to the extent provided in advance in appropriations acts and shall be credited to the appropriate special fund accounts described in this Act. In addition, said fees shall be available for the purposes of this Act only to the extent provided in advance in appropriations acts and are authorized to be appropriated to remain available until expended. In fiscal year 1996 and thereafter, fees collected as authorized to be collected pursuant to subsections 4 (a) and (b) of this Act may be collected as authorized by this Act and shall be available as provided in this Act without further provision in appropriations acts.

(e) USE OF FEES.—The Secretary shall develop procedures for the use of these receipts that ensure accountability and demonstrated results consistent with the purposes of this act. The Secretary shall report annually to Congress on the expenditure of funds from fees collected, beginning after the first full fiscal year following enactment of this Act.

(f) DISCOUNTS.—In establishing the fees authorized in this section, the Secretary shall establish appropriate discounts for educational groups, persons sixty-two years of age or older, or persons who are blind or permanently disabled. The Secretary may also establish criteria when the fees may be waived for these groups or individuals.

(g) CRITERIA.—All fees established pursuant to this section shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable fees charged by non-Federal public and private agencies, the economic and administrative feasibility of fee collection and other pertinent factors. The Secretary shall from time to time review the fees for consistency with the provisions of this subsection and provide timely public notice of any proposed changes in the fees.

SEC. 5.—DONATIONS.

(a) REQUESTS FOR DONATIONS.—In addition to other authorities the Secretary may have to accept the donation of lands, buildings, other property, services, and moneys for the purposes of the National park System, the Secretary is authorized to solicit donations of money, property, and services from individuals, corporations, foundations and other potential donors who the Secretary believes would wish to make such donations as an expression of support for the national parks. Such donations may be accepted and used for any authorized purpose or program of the National Park Service, and donations of money shall remain available for expenditure without fiscal year limitation. Any employees of the Department to whom this authority is delegated shall be set forth in regulations issued by the Secretary pursuant to paragraph (d).

(b) EMPLOYEE PARTICIPATION.—Employees of the National Park Service may solicit donations only if the request is incidental to or in support of, and does not interfere with their primary duty of protecting and administering the parks or administering authorized programs, and only for the purpose of providing a level of resource protection, visitor facilities, or services for health and safety projects, recurring maintenance activities, or for other routine activities normally funded through annual agency appropriations. Such requests must be in accordance with guidelines issued pursuant to paragraph (d).

(c) PROHIBITIONS.—(1) A donation may not be accepted in exchange for a commitment to the donor on the part of the National Park Service or which attaches conditions inconsistent with applicable laws and regulations or that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Department, or which compromises a criminal or civil position of the United States or any of its departments or agencies or the administrative authority of any agency of the United States.

(2) In utilizing the authorities contained in this section employees of the National Park Service shall not directly conduct or execute major fund raising campaigns, but may cooperate with others whom the Secretary may designate to conduct such campaigns on behalf of the National Park Service.

(d) REGULATIONS AND GUIDANCE.—(1) The Secretary shall issue regulations setting forth those positions to which he has delegated his authority under paragraph (a) and the categories of employees of the National Park Service that are authorized to request donations pursuant to paragraph (b). Such regulations shall also set forth any limitations on the types of donations that will be requested or accepted as well as the sources of those donations.

(2) The Secretary shall publish guidelines which set forth the criteria to be used in determining whether the solicitation or acceptance of contributions of lands, buildings, other property, services, moneys and other gifts or donations authorized by this section would reflect unfavorably upon the ability of the Department of the Interior or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs. The Secretary shall also issue written guidance on the extent of the cooperation that may be provided by National Park Service employees in any major fund raising campaign which the Secretary has designated others to conduct pursuant to paragraph (c)(2).

SEC. 6.—CHALLENGE COST-SHARE AGREEMENTS.

(a) AGREEMENTS.—The Secretary is authorized to negotiate and enter into challenge cost-share agreements with cooperators. For purposes of this section, the term—

(1) "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary with respect to the National Park System; and

(2) "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(b) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary is authorized, subject to appropriation, to provide the Federal funding share from any funds available to the National Park Service.

SEC. 7.—COST RECOVERY FOR DAMAGE TO PARK RESOURCES.

Any funds payable to United States as restitution on account of damage to park resources or property shall be paid to the Secretary. Any such funds, and any other funds received by the Secretary as a result of forfeiture, compromise, or settlement on account of damage to park resources or property shall be available without appropriation and may be expended by the Secretary without regard to fiscal year limitation to improve, protect, or rehabilitate any park resources or property which have been damaged by the action of a permittee or any unauthorized person.

SEC. 8—CONSISTENCY WITH OTHER LAWS.

(a) Except as provided in subsection (b), to the extent that the provisions of this Act are inconsistent with section 4 of the Land and Water Conservation Act of 1965 as amended (16 U.S.C. 4601-6a) or any other provision of law, including any provision that prohibits or limits the charging of a reasonable recreation or other fee, the provisions of this Act shall prevail.

(b) The following sections of the Land and Water Conservation Act of 1965 as amended (16 U.S.C. 4601-6a) will apply to this Act:

(1) RULES AND REGULATIONS; ESTABLISHMENT; ENFORCEMENT POWERS; PENALTY FOR VIOLATIONS.—In accordance with the provisions of this section, the Secretary may prescribe rules and regulations for areas under his or her administration for the collection of any fee established pursuant to this section. Persons authorized to enforce any such rules or regulations issued under this subsection may, within areas under the administration or authority of the Secretary and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate judge specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in subsections (b), (c), (d), and (e) of section 3401 of title 18. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $1000.

(2) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Clear notice that a fee has been established pursuant to this section shall be prominently posted at each area and at appropriate locations therein and shall be included in publications distributed at such areas.

(3) CONTRACTS WITH PUBLIC OR PRIVATE ENTITIES FOR VISITOR RESERVATION SERVICES.—The Secretary, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.

(4) FEDERAL AND STATE LAWS UNAFFECTED.—Nothing in this Act shall authorize Federal hunting or fishing licenses or fees or charges for commercial or other activities not related to recreation, nor shall it affect any rights or authority of the States with respect to fish and wildlife, nor shall it repeal or modify any provision of law that permits States or political subdivisions to share in the revenues from Federal lands or any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law.

(5) SELLING OF PERMITS AND COLLECTION OF FEES BY VOLUNTEERS AT DESIGNATED AREAS; COLLECTING AGENCY DUTIES; SURETY BONDS; SELLING OF ANNUAL ADMISSION PERMITS BY PUBLIC AND PRIVATE ENTITIES UNDER ARRANGEMENTS WITH COLLECTING AGENCY HEAD.—When authorized by the Secretary, volunteers at designated areas may sell permits and collect fees authorized or established pursuant to this section. The Secretary shall ensure that such volunteers have adequate training regarding—

(a) the sale of permits and the collection of fees,

(b) the purposes and resources of the areas in which they are assigned, and

(c) the provision of assistance and information to visitors to the designated area.

The Secretary shall require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond. The head of the collecting agency may enter into arrangements with qualified public or private entities pursuant to which such entities may sell (without cost to the United States) annual admission permits (including Golden Eagle Passports) at any appropriate location.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 14, 1994.

Hon. ALBERT GORE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To promote entrepreneurial management of the National Park Service, and for other purposes."

We strongly recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

Enactment of the enclosed bill would enable the National Park Service and the Department of the Interior to carry out the recommendations of the National Performance Review. Specifically, the Review proposed management reforms for the National Park Service to "Promote Entrepreneurial Management of the National Park Service." In general, the recommendations would give the Park Service increased fiscal flexibility by authorizing the collection of increasing receipts and earmarking increases for park needs. Legislation is necessary to bring about this result.

The enclosed bill would establish a new legislative basis for managing receipts taken in by the National Park Service:

The Secretary would be authorized to set admission, recreation and special use fees at reasonable rates and subject to broad policy guidelines, expanding the possibility and discretion to collect fees at all parks regardless of existing statutory or other limitations. Admission and recreation fees would be available for appropriation back to the National Park Service, except that the cost of collection and 50 percent of any additional receipts over and above FY 1993 levels may be placed in the National Park Renewal Fund and Fee Collection Support accounts for use by parks without further appropriation. With a portion of increased revenues made directly available to parks to cover the cost of collection and pressing infrastructure needs, this will provide an entrepreneurial incentive to park superintendents to maximize fee collection year-round.

Challenge cost-share grants would be authorized, wherein the National Park Service could match donated funds for park projects.

The authority for National Park Service employees to seek donations would be clearly spelled out.

Monetary damages payable to the United States on account of damage to park property and resources would be available to the National Park Service for rehabilitation work.

The bill would give the National Park Service flexibility in responding to management needs and would provide critical funds to supplement rather than supplant existing appropriations, resulting in a stable funding base from which to address the immense backlog of real needs in the parks. Additional receipts that accrue will be displayed in annual National Park Service budget requests.

The effect of this draft bill on the deficit is:

FISCAL YEARS
[In millions of dollars]

	1995	1996	1997	1998	1995–1998
Outlays	−1.6	−39.3	−19.4	−15.3	−75.6

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. This bill would decrease direct spending. Considered alone, this bill meets the pay-as-you-go requirement of OBRA.

The Office of Management and Budget has advised that enactment of the enclosed draft bill would be in accord with the program of the President.

Sincerely,

B. COHEN.
Assistant Secretary—Policy, Management and Budget.

SUMMARY OF PROPOSED NATIONAL PARK SERVICE ENTREPRENEURIAL MANAGEMENT REFORM ACT

Purpose: In order to meet the increasing demands placed on the National Park System and to ensure preservation of the natural and cultural resources of the System, entrepreneurial strategies are required that will, among other things, increase revenues by reforming the nature, level and collection of fees, recover costs from damage to park

resources and increase voluntary partnerships.

Fees: The Secretary would be authorized to establish fees for admission, special recreational uses, and special park uses, subject to broad policy guidance. Net fees from admission and special recreational uses would be deposited in a special account and allocated, subject to appropriation, to the parks for any operations. The Secretary may withhold the cost of collecting the fees and 50 percent of the additional receipts over and above the FY 1993 levels, for infrastructure needs at parks, without further appropriation.

Donations: The Secretary and certain National Park Service employees would be authorized to seek donations for park and program purposes, subject to limitations established by guidelines.

Challenge Cost-Share Agreements: The Secretary would be authorized to carry out challenge cost-share agreements by using any funds appropriated for the operation of the National Park Service.

Cost Recovery for Damage to Park Resources: The Secretary is authorized to recover restitution on account of damage to park resources or property. Settlement money would be available without appropriation to improve, protect, or rehabilitate park resources or property, which have been damaged by authorized or unauthorized use.

By Mr. COHEN:

S. 2122. A bill to improve the public and private financing of long-term care and to strengthen the public safety net for elderly and nonelderly disabled individuals who lack adequate protection against long-term care expenses, and for other purposes.

PUBLIC-PRIVATE LONG TERM CARE PARTNERSHIP ACT OF 1994

Mr. COHEN. Mr. President, while health care reform is being debated in the Nation's Capital and in the homes of every American family, we must not overlook one of the most critical issues to the elderly and nonelderly disabled Americans—access to affordable and appropriate long-term care services. With an estimated 10 million persons in need of some long-term care services, we cannot miss the opportunity that national health care reform presents to make some very real improvements to our current long-term care systems.

Today I am introducing legislation to correct some of the serious problems in the financing and delivery of long-term care. This proposal would create a strong public-private partnership to help individuals anticipate and pay for their long-term care needs. For those without the resources to finance their own care, this proposal would improve our public safety net to better protect low-income families against the catastrophic expense of long-term care services.

While approximately 38 million people lack basic health insurance, almost every American family is exposed to the devastating costs of long-term care. In fact, less than 3 percent of all Americans have insurance to cover long-term care. With average nursing home costs nearing $40,000 per year and home health care costing from $50 to $200 per day, long-term care expenses can quickly wipe out the lifetime of savings of a disabled individual and his or her family.

Moreover, as the population ages, the human and financial costs associated with long-term care will accelerate dramatically. As ranking minority member of the Special Committee on Aging, I hear countless stories of families struggling to provide 24-hour-a-day caregiving to a loved one in need. Despite their best efforts, some families are literally torn apart or pushed to the brink of financial disaster due to the devastating costs of long-term care.

For example, in a recent hearing of the Aging Committee, we heard riveting testimony from Angela Chapman, a 13-year-old girl whose father is suffering from Alzheimer's disease. She and her mother endure the round-the-clock task of caregiving and are now being forced to sell their home to pay for his care. While they desperately want to keep their family together as long as possible, they can hardly bear the financial and emotional strain of constant caregiving, with little or no respite or assistance.

In my home State of Maine, a 35-year-old woman from Westport had been struggling to remain in her home for years with a chronic and disabling form of multiple sclerosis. She was able to get by, using her disability insurance payments and support from her family. When her disease progressed and her insurance ran out, her family was unable to provide her care and placed her in a nursing home, even though she could have continued to stay at home at a lower cost to government programs.

For years, long-term care has been only an after-thought, or stepchild, of health care reform. Our current system is a maze of fragmented, inequitable Federal and State programs. While we spend millions of Medicaid dollars to provide nursing home and some home care, the system is falling under its own weight: Long term care is the fastest growing segment of State Medicaid expenses, and State budgets are breaking due to the exploding costs.

As a Nation we do not have satisfactory ways to help families anticipate and pay for their long-term care needs. Instead, families are too often left on their own to juggle caregiving needs with their own jobs, or are forced to institutionalize their elderly parents or disabled children when they desperately want to keep them at home, simply because there is no other affordable care available to them.

In earlier days, when Federal deficits did not loom so large over our economy, the solution would have been relatively simple: just create a new open-ended entitlement program. Today, however, we can no longer afford to constuct new, unrestrained non-means-tested programs. Such an approach is not only fiscally irresponsible, but also impedes the creation of a private long-term care insurance market and fails to encourage individuals who are financially able to plan and save for their own future long-term care needs.

As we undertake health care reform, we must make it easier for individuals to financially plan for their future long-term care needs. Individuals should consider the need for long-term care a normal risk of growing old, and plan for this risk just as they plan their retirement, purchase life insurance to protect their families, purchase health, or car insurance. A strong private long-term care market will not only give individuals greater financial security for their future, but will ease the financial burden on the Federal Government for years to come, as our population ages and more elderly persons need long-term care services.

The legislation I am introducing today provides important tax incentives for the purchase of long-term care insurance and places consumer protections on long-term care insurance policies so quality products will be affordable and accessible to more Americans. It allows States to develop programs under which individuals can keep more of their assets and still qualify for Medicaid if they take steps to finance their own long-term care needs, allows individuals to make tax free withdrawals from their individual retirement accounts without penalty if they purchase private long-term care insurance, and provides for consumer education to help families decide how to best plan for their own particular circumstances.

While long-term care insurance can be very affordable when purchased at a younger age, we must recognize that steps should be taken to help those elderly individuals today who have not insured themselves for long-term care, and those at lower incomes who are unable to afford private insurance coverage. Even a strong private sector insurance market will not replace the need for public programs to provide a safety net for the millions of American families who cannot afford insurance.

The proposal we are offering today would work to improve our public safety net to better protect those at low-income levels against the catastrophic expense of long-term care services. The bill eliminates the current bias in our system toward nursing home care and sets up criteria allowing individuals with income levels up to 150 percent of the poverty level to qualify for home care benefits. Far too often, elderly or disabled individuals are forced to enter nursing homes prematurely simply because this is the only care that is covered under Medicaid. While there will always be those who require institutionalized care, for many others home and community-based care can be a

less expensive alternative, saving millions of dollars for the overall system.

Finally, the bill provides for demonstration projects and establishes a commission to explore ways to better integrate long-term care with the rest of the health care system. These initiatives will work to create a more balanced and integrated delivery system that will meet people's needs over the years. In a recent hearing held before the Senate Select Committee on Aging, the General Accounting Office testified that we could bring about better long-term care services without spending more money by simply focusing greater attention to individual needs and through more flexible programs. I strongly believe that we can and must do better to serve individuals in need of long-term care, without placing more pressure on State and Federal budgets.

Mr. President, while we spend the next few months debating the merits of such issues as managed competition, health care alliances, the amount of regulation necessary, and who should pay for each proposal, we must keep in mind that the ultimate measure of reform for each American will be, "What will health care reform mean for me?" For a senior citizen with Parkinson's disease, a young mother with multiple sclerosis, and their families, making long-term care more affordable and accessible is not a fringe issue, but rather a key test for health care reform legislation.

Last September I held a hearing in Augusta, ME, on long-term care that was attended by over 500 senior citizens, caregivers, health care providers, and policymakers. The interest and enthusiasm of the participants sent me a clear message on the need to correct many of the deficiencies in our long-term care system.

The legislation I am introducing today, takes several significant steps to accomplish this goal and will provide some meaningful relief to families facing exorbitant long-term care costs.

I am extremely pleased that several other bills before Congress such as the administration's Health Security Act, Senator CHAFEE's HEART proposal, and Senator PACKWOOD's secure choice bill contain important long-term care provisions. While I believe my legislation offers a reasonable alternative, I am supportive of initiatives which expand appropriate home and community-based services to those most in need and improve private sector participation in the financing of long-term care.

I urge my colleagues to support this long-term care legislation that creates a strong public-private partnership and I look forward to working together to ensure health care reform makes improvements in the way long-term care services are provided for disabled individuals both now and in the future.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

SECTION BY-SECTION SUMMARY—PUBLIC-PRIVATE LONG-TERM CARE PARTNERSHIP ACT OF 1994

Purpose: This bill is designed to build a public-private partnership for the payment and planning of long-term care services for elderly and non-elderly disabled. An emphasis is placed on removing tax barriers and creating incentives which encourage individuals and their families to finance their future long-term care needs. The bill creates consumer protection standards for long-term care insurance, and provides incentives and public education to encourage the purchase of private long-term care insurance. For those individuals who cannot afford long-term care insurance or those who are already disabled, the bill expands the public safety net for long-term care under Medicaid.

TITLE I.—TAX TREATMENT OF LONG-TERM CARE INSURANCE

Sec. 101. Qualified long-term care services treated as medical expenses

Section 213 of the Internal Revenue Code is amended to allow qualified individuals to deduct out-of-pocket long-term care services as medical expenses subject to a floor of 7.5 percent of adjusted gross income. Qualified long-term care services include necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance and personal care performed in either a residential or nonresidential setting. Qualified individuals must be determined by a licensed professional or qualified community case manager to be unable to perform without substantial assistance at least two activities of daily living (ADLs) or suffer from a moderate cognitive impairment.

Sec. 102. Treatment of long-term care insurance

Section 213 is also amended to allow qualified long-term care insurance premiums to be deducted as medical insurance subject to the 7.5 percent-of-adjusted-gross-income-floor. Qualified long-term care insurance premiums are also deductible as a business expense and employer-provided long-term care insurance is excluded from an employee's taxable income. A qualified long-term care insurance policy must meet the regulatory standards as established in Title II. The provision would apply to taxable years beginning after December 31, 1995.

Sec. 103. Treatment of benefits under qualified long-term care policies

Benefits paid under qualified long-term care insurance policies would be excluded from income under section 105(c) "Payments Unrelated to Absence from Work", and employer-paid long-term care insurance would be a tax free employee fringe benefit.

The daily benefit cap for all long term care policies would be established at $150 per day and indexed for inflation. All payments above the established cap are treated as income.

Private long-term care insurance is exempt from the continuation of coverage requirements created by COBRA. In addition, long-term care will be considered a "qualified benefit" that may be included in a cafeteria plan.

The provision would apply to policies issued after December 31, 1995

Sec. 105. Tax treatment of accelerated death benefits under life insurance contracts

Clarifies that an accelerated death benefit received by an individual on the life of an insured who is terminally ill individual (expected to die within 12 months) is excluded from taxable income as payment by reason of death.

TITLE II.—STANDARDS FOR LONG-TERM CARE INSURANCE

Sec. 201. Policy requirements

Insurers are required to meet the National Association of Insurance Commissioners (NAIC) January 1, 1993 standards for long-term insurance. Additional requirements include: a mandatory offer of nonforfeiture benefits, rate stabilization, minimum rate guarantees, limits and notification of increases on premiums and reimbursement mechanisms for long-term care policies. Policies that do not meet these consumer protection standards would be denied the favorable tax treatment described in Section I.

Sec. 202. Additional requirements for issuers of long-term care insurance policies

A penalty of $100 per day per policy shall be imposed on long-term care issuers failing to meet the NAIC model standards as outlined in this section.

Sec. 203. Coordination with State requirements.

A State retains the authority to apply additional standards or regulations that provide greater protection of policyholders of long-term care insurance.

Sec. 204. Uniform language and definitions

The NAIC is directed to no later than January 1, 1995 issue standards for the use of uniform language and definitions in long-term care insurance policies, with permissible variations to take into account differences in state licensing requirements for long-term care providers.

Sec. 205. Effective dates

The provisions would apply to policies issued after December 31, 1995

TITLE III.—INCENTIVES TO ENCOURAGE THE PURCHASE OF PRIVATE INSURANCE

Sec. 301. Public Information and education programs

The Secretary of Health and Human Services is directed to establish a program designed to educate individuals on the risks of incurring catastrophic long-term care costs and the coverage options available to insure against this risk. Education should increase consumers knowledge of the lack of coverage for long-term care in Medicare, Medigap and most private health insurance policies and explain the various benefits and features of private long-term care insurance.

Sec. 302 Assets or resources disregarded under the Medicaid Program

Amends Section 1917(b) of the Social Security Act, related to Medicaid Estate Recoveries, to allow for states to establish asset protection programs for individuals who purchase qualified long-term care insurance policies, without requiring states to recover such assets upon a beneficiaries death. This provision is aimed at encouraging more middle-income persons to purchase long-term care insurance by allowing individuals to keep a limited amount of assets and still quality for Medicaid, if they have purchased long-term care insurance.

States that develop asset protection programs to encourage private insurance purchase are required to conform with uniform reporting and documentation requirements established by the Secretary of Health and Human Services.

Sec. 303. Distributions from individual retirement accounts for the purchase of long-term care insurance coverage

Individuals above 59½ are allowed tax-free distributions from an IRA or an individual retirement annuity for the purchase of a long-term policy. Also allows individuals below the age of 59½ to withdraw from their individual retirement account without penalty in order to purchase a qualified long-term care plan. Individuals who obtain tax-free distributions from their IRA or individual retirement annuity would be restricted from deducting their long-term care insurance premium as a medical expense under Title I of this act. The amendments made by this section apply to taxable years beginning after December 31, 1995.

TITLE IV.—IMPROVED PUBLIC SAFETY NET FOR LONG-TERM CARE

Sec. 401. References in title

All references in this title apply to the Social Security Act.

Sec. 402. Spend-down eligibility for nursing facility residents

Requires states to expand eligibility for nursing facility residents who are determined to be "medically needy." Such individuals are those with incomes below the SSI poverty level when expenses for medical care are deducted from their income.

Sec. 403. Increase in personal needs allowance for institutionalized individuals

Amends Medicaid by increasing to $50 per month (from $30) the amount of funds an individual residing in a nursing facility is able to retain for personal needs.

Sec. 404. Increased resource disregard for nursing facility residents

Amends Medicaid to allow states to disregard up to $8,000 in assets by an unmarried, institutionalized individual.

Sec. 405. Informing nursing home residents about availability of assistance for home and community-based services

Requires that an individual who is a resident of a nursing facility or an intermediate care facility for the mentally retarded, receive at the time of application and periodically thereafter, information on the range of home and community-based services available in the State.

Sec. 406. Establishment of State programs furnishing home and community based services to certain individuals with disabilities

This provision expands Medicaid by adding an optional state-administered, means-tested program to cover home care services for low income individuals with severe disabilities. Beginning in 1997, those persons eligible for benefits with less than $8,000 in assets and incomes below 90 percent of poverty would qualify for home and community-based services under this program. In calendar year 1998, the coverage will increase to 110 percent of poverty; 1999: 130 percent; and 2000: 150 percent of poverty. Individuals with incomes above these levels could qualify for benefits once they have spent down their assets and income to allowable amounts.

To be eligible, individuals must be unable without significant assistance to perform two or more activities of daily living such as eating, dressing, transferring, toilet, bathing, and continence, have profound mental retardation, or be assessed as severely disabled child under the age of six who would otherwise need institutionalized care.

Significant flexibility is given to the states to design their long-term care program. All individuals will receive personal assistance services, however states can cover any appropriate service including: homemaker assistance, respite services, assistive devices, adult day care services, habilitation and rehabilitation, and skilled home health care services.

All states will be matched up to 75 percent for services covered under this section, with a maximum matching rate fixed at 88 percent. States will have the option to require minimal copayments for services from individuals above 100 percent of poverty based on a sliding scale.

Sec. 407. Require Secretary of HHS to report to Congress on long-term care programs

Directs the Secretary to make interim and final reports to Congress on the effectiveness of the new long-term care program and growth and developments in the private market for long-term care insurance.

Requires the Secretary of HHS to report on the feasibility of integrating acute and long-term care services and the cost of including institutional and community based long-term care as a standard benefit under a comprehensive benefit plan for all Americans.

Sec. 408. Establish a chronic care commission

For purposes of this title chronic care refers to: the ongoing provision of medical, functional, psychological, environmental, social and medical services that enable chronically ill individuals to optimize their functional independence. Chronic care includes an integrated continuum of primary prevention, acute, transitional, and long-term care services.

The President shall, in consultation with Congress, establish a bipartisan, national Commission on Chronic Care Reform. The Commission shall consist of 11 individuals. The membership of the Commission shall include representatives of chronically ill individuals; providers who furnish primary, acute, institutional services, and home and community-based services, health insurance industry; and Federal and State health programs. The Commissions shall work under the leadership of the Secretary of HHS, and in consultation with national demonstration on integrating acute and long-term care. The Commission shall have the following duties:

Make legislative recommendations to Congress no later than July 1, 1997 which simplify and improve care for chronically ill individuals. The recommendations should: encourage health care providers to establish community based networks of care which furnish a full range of individualized chronic care services including primary care, hospital, nursing home, and community-based services; reduce the escalation of cumulative costs across time and setting; outline service delivery reform which simplifies systems for administration; identify barriers to integration of services as established by existing legislation, regulation, and administrative practices; and maintain a private sector, community based approach to furnishing services to such individuals.

Sec, 409. Demonstration on acute and long-term care integration

The national demonstration on acute and long-term care integration directs the Secretary of Health and Human Services to implement a 7-year national demonstration, at not more than 25 sites, which seeks to develop new integrated approaches to the financing, administration, and delivery of services for the chronically ill or individuals with disabilities. The Secretary must evaluate demonstration projects and make interim and final reports to Congress.

By Mr. DORGAN (for himself and Ms. MIKULSKI):

S. 2123. A bill to prohibit insured depository institutions and credit unions from engaging in certain activities involving derivative financial instruments.

DERIVATIVES LIMITATIONS ACT OF 1994

Mr. DORGAN. Madam President, I have an Associated Press dispatch in my hand that says that the Federal Reserve Board met a few hours ago, locked the door, closed the room and once again in secret took action to increase short-term interest rates by one-half of 1 percent.

The Federal Reserve Board met today on Tuesday, and the American people lost again. I know that the Federal Reserve Board wants to be seen as fearless inflation fighters. The fact is that the Federal Reserve Board has a hair trigger on inflation issues and has clay feet on issues that affect economic growth and opportunity in this country.

The Federal Reserve Board is increasing interest rates now the fourth time saying we have inflation just over the horizon.

I say to the Federal Reserve Board what inflation? What inflation?

Last week Thursday, the Producer Price Index came out. You know what it showed? Down one-tenth of 1 percent. Friday the Consumer Price Index came out. You know what it says? Up only one-tenth of 1 percent.

So I ask the Federal Reserve Board what inflation are you talking about? Why do you impose this tax on the American people. Every American family will pay a higher interest rate as a result of behavior of the Federal Reserve Board.

Yes, this is good politics for the Federal Reserve Board. They served their constituency, the big money center banks. I guarantee you it is not good monetary policy for this country.

I hope others in the Chamber will share that view and make that known to the Federal Reserve Board.

The Federal Reserve Board is applying the brakes to this country's economy at precisely the wrong time. Increasing interest rates will slow down the American economy at exactly the time when we need more economic growth, more jobs and more opportunity. That is a fact. The Fed is uniquely capable—it demonstrated again today—of taking the wrong action at exactly the wrong time.

Madam President, in addition to my displeasure with the Federal Reserve Board, let me indicate to my colleagues that I just introduced a piece of legislation to prohibit banks in this country from engaging in proprietary trading in derivatives. That all sounds like a foreign language. But, this week the General Accounting Office will release a major report on a new threat to the taxpayers and the economy of this Nation.

The threat is not from foreign competition, or Government deficits or reg-

ulation. It is from Wall Street, and a new form of sophisticated financial bingo called derivatives. Even Fortune magazine—hardly a carping business critic—is warning that derivatives could swamp our economy in a sea of red ink.

Fortune estimates the new derivatives game at some $16 trillion, which is more than twice our Nation's total economic output. A single default, the magazine said, could ignite a chain reaction that runs rampant through the financial markets. "Inevitably, that would put deposit insurance funds, and the taxpayers behind it, at risk."

That is a risk that Congress must not permit. Already the taxpayers of this country are footing the bill for the $500 billion bailout of the savings and loan industry. A gang of financial high-fliers tried to get rich quick on junk bonds and inflated real estate loans, and the taxpayers had to clean up the mess. Congress learned a lesson, or should have, at least.

That is why I am introducing today a bill to protect the taxpayers of this country from a replay of the savings and loan fiasco. Specifically, my bill would prevent banks and other institutions with Federal insurance from playing roulette in the derivatives market. If an institution has deposits insured by the Federal Government, it should not be involved in trading risky derivatives for its own account. Such proprietary trading involves a degree of risk that is totally out of step with safe and sound banking practices. It will not occur if my bill is enacted.

What investors do with their own money is their own business. But what they do with money insured by the American taxpayers, is the business of Congress. The purpose of deposit insurance is to encourage saving. It is to promote a pool of capital that is available to build homes and businesses and jobs. Deposit insurance is not supposed to underwrite rampant speculation on Wall Street, and my bill will help prevent that from happening.

Derivatives are essentially a form of bet. Investors stake a position that interest rates, or the dollar, or commodities, or whatever, will rise or fall. Up to a point, this is simply a form of hedging risk. Banks and corporations have hedged in this manner for many years, and my bill would not affect these traditional and conservative hedging transactions.

But Wall Street passed the point of innocuous risk-protection long ago. Far from hedging risk, derivatives today have become a form of risk. Some nations define them as gambling, which is what they are. In the words of Henry Kaufman, the investment advisor, they mean that "more credit is available to people who may have no business getting it."

This is not idle doomsaying. Already, the Kidder-Peabody investment firm has lost some $350 million. Proctor & Gamble Co. has taken a $157 million bath, and investment analysts warn that many more such losses lay buried in the balance sheets of corporations and investment firms alike. Orange County, CA, had to meet a $140 million collateral call because some derivative speculations started going bad. This raises the specter that local taxpayers may end up holding the bag as well.

Derivatives are the latest episode in a daisy chain of financial mismanagement, in which the bankers and financiers of this Nation have tried to cover their bad investments with worse ones. First came the foolish third world loans. Then the junk bonds and fatuous real estate investments of the eighties. Now we have derivatives, which up the risk ante to new heights, and spread nitroglycerine over the debt structure of the entire Nation.

The three biggest players in the derivatives game are New York banks—Chemical Bank, Bankers Trust, and Citicorp. Together, these three banks are into this market for over $6 trillion; Chemical Bank alone is in for $2.5 trillion. All of these banks have Federal deposit insurance. The purpose of my bill is to make sure that the banks don't have to use it.

In the late 1980's Congress prohibited Savings and Loans from investing in junk bonds. The bill came too late to prevent the S&L fiasco. But at least it applied a tourniquet to stop the bleeding. Now we have a chance to prevent a crisis instead of rushing belatedly to staunch it.

Banks ought not to be involved in proprietary trading on derivatives. That is gambling with taxpayers' money and we ought to take action to stop it. That is the purpose of introducing the bill today, and I urge my colleagues to support this legislation.

I ask unanimous consent that the full text of this bill be included in the RECORD.

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

S. 2123

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 "Derivatives Limitations Act of 1994".

SEC. 2. INSURED DEPOSITORY INSTITUTIONS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 44. DERIVATIVE INSTRUMENTS.

"(a) DERIVATIVES ACTIVITIES.—

"(1) GENERAL PROHIBITION.—Except as provided in paragraph (2), neither an insured depository institution, nor any affiliate thereof, may purchase, sell, or engage in any transaction involving a derivative financial instrument for the account of that institution or affiliate.

"(2) EXCEPTIONS.—

"(A) HEDGING TRANSACTIONS.—An insured depository institution may purchase, sell, or engage in hedging transactions to the extent that such activities are approved by rule, regulation, or order of the appropriate Federal banking agency issued in accordance with paragraph (3).

"(B) SEPARATELY CAPITALIZED AFFILIATE.—A separately capitalized affiliate of an insured depository institution that is not itself an insured depository institution may purchase, sell, or engage in a transaction involving a derivative financial instrument if such affiliate complies with all rules, regulations, or orders of the appropriate Federal banking agency issued in accordance with paragraph (3).

"(C) DE MINIMIS INTERESTS.—An insured depository institution may purchase, sell, or engage in transactions involving de minimis interests in derivative financial instruments for the account of that institution to the extent that such activity is defined and approved by rule, regulation, or order of the appropriate Federal banking agency issued in accordance with paragraph (3).

"(D) EXISTING INTERESTS.—During the 3-month period beginning on the date of enactment of this section, nothing in this section shall be construed—

"(i) as affecting an interest of an insured depository institution in any derivative financial instrument which existed on the date of enactment of this section; or

"(ii) as restricting the ability of the institution to acquire reasonably related interests in other derivative financial instruments for the purpose of resolving or terminating an interest of the institution in any derivative financial instrument which existed on the date of enactment of this section.

"(3) ISSUANCE OF RULES, REGULATIONS, AND ORDERS.—The appropriate Federal banking agency shall issue appropriate rules, regulations, and orders governing the exceptions provided for in paragraph (2), including—

"(A) appropriate public notice requirements;

"(B) a requirement that any affiliate described in subparagraph (B) of paragraph (2) shall clearly and conspicuously notify the public that none of the assets of the affiliate, nor the risk of loss associated with the transaction involving a derivative financial instrument, are insured under Federal law or otherwise guaranteed by the Federal Government or the parent company of the affiliate; and

"(C) any other requirements that the appropriate Federal banking agency considers appropriate.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term 'derivative financial instrument' means—

"(A) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as defined in section 11(e)(8)); and

"(B) any other instrument that an appropriate Federal banking agency determines, by regulation or order, to be a derivative financial instrument for purposes of this section; and

"(2) the term 'hedging transaction' means any transaction involving a derivative financial instrument if—

"(A) such transaction is entered into in the normal course of the institution's business primarily—

"(i) to reduce risk of price change or currency fluctuations with respect to property which is held or to be held by the institution; or

"(ii) to reduce risk of interest rate or price changes or currency fluctuations with respect to loans or other investments made or to be made, or obligations incurred or to be incurred, by the institution; and

"(B) before the close of the day on which such transaction was entered into (or such earlier time as the appropriate Federal banking agency may prescribe by regulation), the institution clearly identifies such transaction as a hedging transaction.".

SEC. 3. INSURED CREDIT UNIONS.

Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

"SEC. 215. DERIVATIVE INSTRUMENTS.

"(a) DERIVATIVE ACTIVITIES.—Except as provided in subsection (b), neither an insured credit union, nor any affiliate thereof, may purchase, sell, or engage in any transaction involving a derivative financial instrument.

"(b) APPLICABILITY OF SECTION 44 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 44 of the Federal Deposit Insurance Act shall apply with respect to insured credit unions and affiliates thereof and to the Board in the same manner that such section applies to insured depository institutions and affiliates thereof (as those terms are defined in section 3 of that Act) and shall be enforceable by the Board with respect to insured credit unions and affiliates under this Act.

"(c) DERIVATIVE FINANCIAL INSTRUMENT.—For purposes of this section, the term 'derivative financial instrument' means—

"(1) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as defined in section 207(c)(8)(D)); and

"(2) any other instrument that the Board determines, by regulation or order, to be a derivative financial instrument for purposes of this section.".

SEC. 4. BANK HOLDING COMPANIES.

Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

"(h) DERIVATIVES ACTIVITIES.—

"(1) IN GENERAL.—A subsidiary of a bank holding company may purchase, sell, or engage in any transaction involving a derivative financial instrument for the account of that subsidiary if it—

"(A) is not an insured depository institution or a subsidiary of an insured depository institution; and

"(B) is separately capitalized from any affiliated insured depository institution.

"(2) APPLICABILITY OF SECTION 44 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 44 of the Federal Deposit Insurance Act shall apply with respect to bank holding companies and the Board in the same manner that those such subsections apply to an insured depository institution (as defined in section 3 of that Act) and shall be enforceable by the Board with respect to bank holding companies under this Act.

"(3) DERIVATIVE FINANCIAL INSTRUMENT.—For purposes of this subsection, the term 'derivative financial instrument' means—

"(A) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as defined in section 207(c)(8)(D)); and

"(B) any other instrument that the Board determines, by regulation or order, to be a derivative financial instrument for purposes of this subsection.".

Mr. DORGAN. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator speaking as the Senator from Maryland would like to be included as a cosponsor.

Without objection, it is so ordered.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 2124. A bill to provide for private development of power at the Mancos project and for other purposes; to the Committee on Energy and Natural Resources.

MANCOS PROJECT PRIVATE POWER DEVELOPMENT AUTHORIZATION

Mr. CAMPBELL. Mr. President, I am sending legislation to the desk that will allow the construction of a hydropower plant at the Jackson Gulch Reservoir in southwestern Colorado. The legislation will also allow the Mancos Water Conservancy District to receive the power revenues.

This legislation is necessary because while the Jackson Gulch Reservoir is a Federal project, the Bureau of Reclamation is not permitted to issue a permit, under the terms of the district's project repayment contract and the Water Conservation and Utilization Act of 1939, that would allow the district to use revenues from the hydropower project to operate and maintain its facilities.

In other words, while the Bureau could issue a Lease of Power Privilege, the revenues would return to the Federal treasury—not to the district, which would construct, operate and maintain the hydropower project just as it already operates and maintains the Mancos irrigation project without cost to the Federal Government. To ask the district to build a project to defray these costs, then take away the revenues, isn't fair.

A feasibility report and an engineering and construction report for the Jackson Gulch Reservoir and hydroelectric project have been submitted to the Colorado Division of Wildlife and the U.S. Fish and Wildlife Service.

The Colorado Division of Wildlife has concluded that based on these documents, the volume, timing and temperature of the flows from the reservoir will not be altered and that no adverse impact to the fish and wildlife resources is anticipated.

The U.S. Fish and Wildlife has made a similar finding, and added that the proposed project is not likely to cause any adverse impact to endangered or candidate species, nor will it pollute or deplete any water in the San Juan River Basin.

Mr. President, this bill should be viewed as a housekeeping measure because it clarifies what our policy ought to be with respect to hydropower development at projects authorized by the Water Conservation and Utilization Act of 1939. These projects are now more than 50 years old. Local sponsors should be encouraged to ensure these projects continue to provide multiple benefits for another generation of farming families.

I hope my colleagues will agree with me that this is the right approach and I now ask unanimous consent that several documents be placed in the RECORD along with my statement—a copy of the bill; letters of support from the Montezuma County commissioners, the Mancos Water Conservancy District and the town of Mancos; a brief description of the history and economics of the Jackson Gulch Reservoir that was prepared by the irrigation district staff; letters from the Colorado Division of Wildlife and the U.S. Fish and Wildlife Service; and finally, a copy of the Department of the Interior's Associate Solicitor memorandum concerning hydropower development at Water Conservation and Utilization Act Projects.

Mr. President, I ask unanimous consent that a copy of the bill and supporting materials be included in the RECORD.

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

S. 2124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This bill may be cited as the "Mancos Project Private Power Development Authorization Act of 1994."

SEC. 2. FINDINGS.

Congress finds that—

(a) Development of hydroelectric power at the Mancos Project consistent with the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project dated April 19, 1991, and revised on May 13, 1992 and February 10, 1993, by the Mancos Water Conservancy District

(1) will be without cost to the United States;

(2) will not impair the efficiency of the project for irrigation purposes;

(3) will not alter the volume, timing or temperatures of flows from the reservoir; and

(4) is not likely to cause any new or increased adverse impacts to any federally listed or candidate species.

(b) That the Mancos Water Conservancy District is currently operating and maintaining facilities at the Mancos Project and that the development of hydroelectric power at the Mancos Project consistent with the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project dated April 19, 1991, revised on May 13, 1992, and February 10, 1993, by the Mancos Water Conservancy District will not increase operation and maintenance costs of the federal government.

(c) That any lease of power privileges issued by the Secretary pursuant to this Act does not constitute a "contract" under section 202(1) of Public Law 97-293 (96 Stat. 1261; 43 U.S.C.A section 390bb) and that nothing in this Act is intended to make applicable any

section of Public Law 97-293 (96 Stat. 1261; 43 U.S.C.A section 390aa *et. seq.*) that would not previously apply.

SEC. 3. AUTHORIZATION TO LEASE POWER PRIVILEGES.

Notwithstanding the provisions of the Water Conservation and Utilization Act (16 U.S.C. sections 90y-590z-11) or any relevant provision of the repayment contract Ilr-384, dated July 20, 1942, as amended December 22, 1947, the Secretary is authorized to enter into a lease of power privileges at the Mancos Project, Colorado, with the Mancos Water Conservancy District.

SEC. 4. LEASE CONDITIONS.

Any such lease of power privileges issued pursuant to Section 3 of this Act shall not exceed a period of forty years and shall be consistent with rates charged by the Federal Energy Regulatory Commission for comparable sized projects. Moneys derived from such lease shall be covered into the reclamation fund in accordance with relevant parts of federal reclamation law, the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

SEC. 5. REVENUES DERIVED FROM POWER DEVELOPMENT.

Notwithstanding the provisions of the Water Conservation and Utilization Act (16 U.S.C. sections 590y-590z-11) or any relevant provision of the repayment contract Ilr-384, dated July 20, 1942, as amended December 22, 1947, the Mancos Water Conservancy District may receive revenues from the sale of the power generated pursuant to such lease of power privilege.

MONTEZUMA COUNTY
BOARD OF COMMISSIONERS,
Cortez, CO, May 13, 1994.

Hon. BEN NIGHTHORSE CAMPBELL,
Hon. HANK BROWN,
Senate Office Building, Washington, DC.

DEAR SENATORS: On behalf of the Board of County Commissioners for Montezuma County I would like to take this opportunity to express our strong support for legislation that will allow the installation of a small hydro-electric plant at Jackson Gulch Dam which was built in the 1940's, by Bureau of Reclamation project for the Mancos Conservancy District.

The Mancos Valley still has a viable agricultural community which depends on this project. In order to properly operate and maintain a project this old, it is necessary to find new and innovative ideas to derive revenue for the continued upkeep of project facilities.

The Mancos Water Conservancy District conceived and designed this project at their own expense and initiative. The revenues derived from the hydro-electric plant are an integral part of keeping the cost of water to the Mancos Valley at a level that will continue to sustain the agricultural community.

This project also supplies water through a rural water system to many residents in the Mancos Valley as well as the Town of Mancos. These domestic users will also benefit from the improved maintenance that the hydro project will allow.

We certainly appreciate the congressional support for this project and remain willing to assist in any way to see that this project receives proper legislation.

If you have any questions, please don't hesitate to give me a call.

Sincerely,

THOMAS K. COLBERT,
Chairman, Montezuma County Commissioners.

MANCOS WATER
CONSERVANCY DISTRICT,
Mancos, CO, May 16, 1994.

Hon. BEN NIGHTHORSE CAMPBELL,
Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR: The Mancos Water Conservancy District is in strong support of this legislation for a number of reasons. The project is deteriorating and in need of extensive repairs. The yearly revenue we collect simply cannot keep up with the 1990's cost of repair and yet we cannot raise the rates for our water users beyond their means as this would drive many of them out of the valley which in turn would strongly hurt the local economy which relies heavily on the water provided by the project.

Ironically, the potential for the increased revenue is easily accessible except for the need to change the wording of the project authorization language (Water Conservation and Utilization Act) of the federal government. In order to do this, we are forced to seek legislative language permitting us to proceed with a hydropower plant. We have never requested any federal money nor do we ever intend to request federal money to build this plant. We have prepared the studies and feasibility work ourselves. We cannot stress enough how badly these revenues are needed to prolong the life of our project so that it can continue to serve it's original purpose.

The Mancos Project was approved for construction by the President of the United States on December 19, 1941. On July 20, 1942, the Mancos Water Conservancy District entered into a contract with the United States. On January 1, 1963, the Bureau of Reclamation transferred the operations of the project over to the Mancos Water Conservancy District who are still in charge of the operations and maintenance of the project to date.

Water from Jackson Gulch Reservoir serves 13,746 acres. 8,208 of these acres are currently in agricultural production. The remaining acres are urban and suburban use, dry dropped, idle fallow or grazed and gardened. Current population is estimates at 2,087. Along with irrigation, it serves as municipal water for the Town of Mancos, the Rural water company of the Mancos Valley and Mesa Verde National Park.

The District has an annual income of $76,000. This covers administration, insurance, operations and maintenance of the project, operations and maintenance of district equipment and facilities as well as wages. The project features and equipment are 45 years old. This equipment requires much repair.

Routine maintenance of the dam, tunnel and structures below the dam are absolutely necessary for the fitness and safety of the dam. The cost of one repair, especially one that was not predicted, can wipe out the entire budget. Administrative costs are continually increasing due to the additional regulations required of water districts and other such entities every year.

The valley currently has a low to middle economic base compared to the cost of living standards being set today across the nation. Water rates are reasonable and comparable to the current cost of living standards within the valley. The income derived for the District is fair but certainly not enough to keep up with the rapid increase in the cost of maintenance, routine and emergency. Again, it is considered crucial to the District and the people it serves to maintain water rates within the reasonable means of the people who use it while continuing the routine and emergency maintenance of the entire project.

This District finally received confirmation that they could not move forward with the hydro development with this language and must seek legislation to change the language to allow said development on November 12, 1993. Cost to build the power plant increased each passing year while awaiting this decision. The District cannot stress enough the need to build as soon as possible to take advantage of today's interest rates and dollar stability or the importance of the continued success and maintenance of the project for the overall economic well-being of this entire valley and her residents!

Thank you on behalf of the District. We hope that you can see our cause as just and we ask if there is anything that we can assist in to expedite this matter please let us know. We cannot say enough how much this would help our District.

Sincerely,

MANCOS WATER CONSERVANCY DISTRICT
BOARD OF DIRECTORS.

TOWN OF MANCOS
Mancos, CO, May 16, 1994.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.
Re Jackson Lake hydro power project.

DEAR SENATOR BROWN: The Town of Mancos would like to express it's support for the proposed Jackson Lake Hydro-Power Project.

Jackson Lake is the main water supplier for the Mancos Valley and has been since 1950.

Jackson Lake provides irrigation water, municipal water and recreation in boating and fishing. With adding hydro-power to Jackson it only increases it's usefulness to the Mancos Valley.

Sincerely,

JAY DOTZENKO,
Town of Mancos Public Works Director.

MANCOS WATER CONSERVANCY DISTRICT JACKSON GULCH RESERVOIR HISTORY AND ECONOMICS

The Mancos Valley was basically settled by miners followed by ranching and timber production on private and public lands. Irrigation began in 1876 but crop success depended on the rain fall and the previous winter snow fall which dictated the runoff of the Mancos River which was very low. The river was also the primary water source of the valley, including domestic use for the town and the rural homes. Ranching and farming dominated the valley's economic base. The railroad opened up the valley in 1892 and brought with the first commercial freight facilities. This also brought more people to the valley making claim to the water. This and the late season water shortages caused the people to see the need for a supplemental water supply. The Bureau of Reclamation started investigation on what was called the Mancos Project in October, 1936.

The Mancos Project was authorized under the Water Conservancy and Utilization Act of August 11, 1939, as amended, and was approved for construction by the President of the United States on December 19, 1941. Construction of the project was started in July of 1941. The project consisted of 4.8 miles of canal and one dam with a reservoir capacity of 9980 acre feet of storage. This is one of the few off-river storage projects constructed. On July 20, 1942, the Mancos Water Conservancy District entered into a contract with the United States to pay $600,000 toward the repayment of the construction cost of the Jackson Gulch Dam and Reservoir, inlet and outlet canals. An amendment contract made

December 22, 1947, raised the repayment obligation to $900,000 to be repaid in 60 successive installments of $15,000 annually beginning in December, 1954. On January 1, 1963, the Bureau of Reclamation transferred the operations of the project over to the Mancos Water Conservancy District who are still in charge of the operations and maintenance of the project to date.

Water from Jackson Gulch Reservoir serves 13,746 acres. 8,208 of these acres are currently in agricultural production. The remaining acres are urban and suburban use, dry cropped, idle fallow or grazed and gardened. Current population is estimated at 2,087. Alfalfa hay averaged 2.1 tons per acre at $105.00/ton. Grass hay averaged 2.4 tons per acre at $95.00/ton. Pasture acreage consisted of 3.8 animal units per acre at $11.25/acre per animal unit. Average yield of project water was .8 acre feet per acre.

Along with irrigation, Jackson Gulch water serves as municipal water for the Town of Mancos and the rural Mancos Valley. Mesa Verde National Park has storage rights within the reservoir. The original water plant facility for the park is established at the foot of the dam.

The District has an annual income of $76,000. This covers administration, insurance, operations and maintenance of the project, operations and maintenance of district equipment and facilities as well as wages. The project features and equipment are 45 years old. This equipment requires much repair.

The project has 1.5 miles of concrete flume and the natural environment has taken its toll (rocks falling, ground moving, freeze-thaw cycles, etc.). The District has done many things to preserve the flumes but even with constant repair replacement of these structures is inevitable and are being planned for 15 to 20 years from now. The replacement cost of the flume at todays rates would run around 1.5 million dollars. The project has been plagued with land slide problems above the canals. These slides have reduced in activity but are still a threat. The slides generally occur during the spring runoff and require immediate attention because spring is the only time the water is diverted into the reservoir. To remove slide material becomes an emergency situation which requires immediate attention thereby increasing the cost of such removal since it requires more equipment and more personnel than the usual repair which in most cases is done in a timely manner by the manager, the district's only full-time employee.

In addition to the concrete flumes there are 3.3 miles of earthen canal. The lower section of the earthen inlet canal will need major repair in the form of erosion control. This will require up-to-date equipment or a contractor will have to be hired and will have to be done 5 to 10 years from now. In either case, the cost of the repair will be expensive (rough estimates run between $30,000–$100,000).

With each passing year, the increase of the cost to repair the existing structures prioritize repairs on a crucial to severe basis. In 1994, a repair on the inlet canal stilling basin structure is going to cost the District approximately $5,000.00. This is the only repair which could be scheduled within the budget for this year. Any repair beside this one will be considered only if it is an emergency.

The headquarters were built in 1942 as bunk houses, offices, etc., as temporary structures to house the men who built the dam. Some were remodeled in 1948 to serve as the manager's residence, machine shop and warehouses. These are the same buildings in use today. In 1990, the electrical and water system were redone and upgraded within the residence to bring them to safety standards. The machine shop and storage units have not been up-graded due to lack of funds throughout the years. These will and do require much maintenance, repair or replacement or they will soon crumble.

Administrative costs are continually increasing due to the additional regulations required of water districts and other such entities every year. In order to use the pesticides needed to keep brush and weeds off the canals as required by the Bureau of Reclamation, a license is required and it is necessary to have the proper equipment. The office had to be upgraded with modern equipment in order to more efficiently process the ever increasing paper work to make the most of time so that efforts can be directed to the rest of the project. Insurance is now a major budget item that as of four years ago was a minimum budget figure. Here is an approximate estimate of expenditures in a year for this district:

Expenditures:	
Insurance	$15,000
Manager's wages	20,000
Debt Retirement	18,000
Administrative	9,000
Operations and Maintenance	14,000
Total Income	76,000

The operations and maintenance balance has to cover the cost of repairs to the aging equipment, aging structures such as buildings, and aging structures such as the canals. Routine maintenance of the dam, tunnel and structures below the dam are absolutely necessary for the fitness and safety of the dam and are also included in this category. The cost of one repair, especially one that was not predicted, can wipe out the entire budget figure.

The valley currently has a low to middle economic base compared to the cost of living standards being set today across the nation. Water rates are reasonable and comparable to the current cost of living standards within the valley. The income derived for the District is fair but certainly not enough to keep up with the rapid increase in the cost of maintenance, routine and emergency. It is considered crucial to the District and the people it serves to maintain water rates within the reasonable means of the people who use it while continuing the routine and emergency maintenance of the entire project. To raise the rates to compensate for the cost of operations of the District every year would be a dramatic increase which will soon result in many of the rural water users losing their business and homes along with them. This would be a great loss for the entire valley and it's economic system. The last few years have seen a subdivision of the large land holdings, causing an influx of people. The importance of this reservoir system is as great, if not greater, at the present time than it was in the early 40's.

The Board felt they needed to look for an alternative to raise revenues rather than a drastic increase in the water rates. Hydro power seemed the most promising. Lemon Dam and Pine River Dam, both in the area, had successfully established small power plants which were proving to be economically feasible. Development of hydro-power on this project was first considered in 1984 by a private developer who dropped his F.E.R.C. license due to financial problems within his corporation (1988). The Board took up the investigation to develop the power themselves taking into consideration the Ames Plant which is still in operation after 90 years. Tours of the two projects mentioned above were made, looking into feasibility, construction costs, etc. In 1990, the Board hired an engineering/construction firm to do a feasibility study on a hydro-power project on Jackson Gulch Reservoir. The preliminary results were that a hydro-power plant would be feasible for the District and would accomplish their revenue goal. The power plant the Board was considering will raise approximately $30,000 per year in today's dollars after debt service which is 15 years from now; a time when those dollars will be most needed.

In April, 1990, the District requested a license to generate electrical power from a hydro-power plant from the Bureau of Reclamation. The District's Board met with the Bureau to determine what would be required from an administrative viewpoint from the Bureau. At that time, the Board specifically informed the Bureau that it would proceed under the Reclamation Licensing Jurisdiction and were informed that they (the District) could proceed under the Bureau's jurisdiction. The Board had obtained financial backing for the project insuring that they could construct a power plant without Federal government money. On September 10, 1991, the District was officially informed by the Bureau of Reclamation that a Lease of Power Privilege could not be provided due to language in the Project Repayment Contract and later in the Water Conservation and Utilization Act of 1939. The District was in the final design stages of the project at this time with construction scheduled immediately.

This District finally received confirmation that they could not move forward with the hydro development with this language and must seek legislation to change the language to allow said development on November 12, 1993. In the interim, numerous trips not included in the District's budget were made to Salt Lake City, Washington D.C., and surrounding area offices talking with head officials and solicitors from the Bureau of Reclamation, the Department of Interior, Colorado Senators and Congressmen and many others in an effort to expedite the decision so construction could begin. Cost to build the power plant increased each passing year while awaiting this decision. The District cannot stress enough the need to build as soon as possible to take advantage of today's interest rates and dollar stability or the importance of the continued success and maintenance of the project for the overall economic well-being of this entire valley and her residents!

STATE OF COLORADO, DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WILDLIFE,

Durango, CO, May 26, 1992.

GARY KENNEDY,
Superintendent, Mancos Water Conservancy District, Mancos, CO.

DEAR MR. KENNEDY: The Colorado Division of Wildlife has reviewed the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project. I also discussed the project with you on the telephone today. Since volume, timing, and temperature of the flows from the reservoir will not be altered by the project, we do not anticipate any negative impacts.

Thank you for the opportunity to comment.

Sincerely,

GARY T. SKIBA,
Wildlife Biologist.

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE, ECOLOGICAL SERVICES,
Grand Junction, CO, October 26, 1993.

MEMORANDUM

To: Max J. Stodolski, Projects Manager, Bureau of Reclamation, Durango Projects Office, 835 East 2nd Avenue, P.O. Box 640, Durango, Colorado 81302-0640

From: Assistant Field Supervisor, Ecological Services, Grand Junction, Colorado, Mail Stop 65412

Subject: Proposed Hydroelectric project at Jackson Gulch Dam, Mancos Project, Colorado (Endangered Species)

This responds to your letter of October 20, 1993, requesting review of the plan to increase the hydroelectric capacity of the Jackson Gulch Dam in the Mancos Project.

The Fish and Wildlife Service (Service) feels that the proposed project is not likely to cause any new or increased adverse impacts to any federally listed or candidate species. Your report indicates that the project will not pollute and/or deplete any water from the San Juan River basin, and since the endangered river fish do not occur in the project area, there should not be any adverse effect on these species. The plan was also analyzed for possible impacts to any other listed or candidate species and none were found.

We appreciate the opportunity to review this plan. If the Service can be of further assistance, please contact Michael Tucker at the letterhead address.

KEITH L. ROSE.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, DC.

Memorandum to: Deputy Commissioner.

From: Associate Solicitor, Division of Energy and Resources.

Subject: Hydropower Development at Water Conservation and Utilization Act Projects.

This is in response to your request, dated April 19, 1993, for an opinion interpreting section 9 of the Water Conservation and Utilization Act (WCUA), 16 U.S.C. §590z-7. You have asked whether title in and revenues from facilities provided for surplus power must remain in the United States. More specifically, you inquired whether authority exists to amend the contract to allow a non-federal party to retain the revenue from the sale of electricity generated by a hydropower project constructed with non-federal funds. This opinion concludes that, although the WCUA reserves power development to the federal government, even if non-federal power development were authorized, the use of revenues would be restricted by the language of the WCUA.

A. BACKGROUND

The Bureau of Reclamation (Reclamation) constructed the Mancos Project under general authority of the WCUA. The specific determination to proceed with the Mancos Project is found in a letter from Secretary of the Interior Harold Ickes dated October 21, 1940, and approved by President Franklin D. Roosevelt on October 24, 1940. At that time, Reclamation found hydropower development not to be feasible and no costs were allocated to power. To our knowledge, no other WCUA project includes hydropower facilities.[1]

The Mancos Water Conservancy District (Mancos) has requested the right to develop non-federal power on project facilities. Under the proposal, Mancos would construct hydropower generation facilities on Jackson Gulch Dam. In order for the project to be economically viable, Mancos needs to receive the revenue from the sale of electricity generated by the project.

Section 9 of the WCUA authorizes the Secretary to make "provisions, including contrasts of sale * * * for developing and furnishing" surplus power. 16 U.S.C. §590z-7. It further provides that "[a]ll right, title, and interest in the facilities provided for such * * * surplus power and the revenue derived therefrom shall be and remain in the United States." Id.

The existing repayment contract with Mancos contains language which reserves all hydropower rights to the United States. Article 16(a) of the contract states:

The District shall have the perpetual right to the use of all water that becomes available through the construction and operation of the Project Works, delivered at the lower end of the outlet canal for irrigation, domestic, municipal, and industrial purposes *exclusive of the development of hydro-electric power* as hereinafter excepted. (Emphasis added.)

In addition, subarticle 16(b)(4)(ii) reserves to the United States the right—

[t]o use the Project Works and Water supply for the development of hydro-electric power * * * as provided in subdivision (a) of this article. *Revenues from any such power development shall be the property of the United States * * *. (Emphasis added.)*

B. STATUTORY AUTHORITIES

Authority to develop the hydropower potential of federally-owned dams or sites must originate with the Congress. Congress possesses the authority to regulate hydropower development under the Commerce Clause.

1. Town Sites and Power Development Act of 1906—In section 5 of the Town Sites and Power Development Act of 1906, Congress granted the Bureau of Reclamation authority to develop the hydropower potential of government dams, or to license private development through a lease of power privilege:

Whenever a development of power is necessary for the irrigation of lands under any project undertaken under the said reclamation Act, or an opportunity is afforded for the development of power under any such project, *the Secretary of the Interior is authorized to lease* for a period not exceeding ten years, giving preference to municipal purposes, *any surplus power or power privilege*, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided*, That no lease shall be made of such surplus power or power privileges as will impair the efficiency of the irrigation project * * *. 34 Stat. 117; 43 U.S.C. §522 (Emphasis added.)

2. Reclamation Project Act of 1939.—In 1939, Congress enacted the Reclamation Project Act (1939 Act) which effected a significant reauthorization of the Reclamation program. It granted broad authorities to the Secretary with respect to curing repayment and accounting problems and provided new authorities to the Secretary with respect to contracting. Section 9(c) of the 1939 Act provides authority for furnishing municipal water supplies and provides new terms for contracting for electric power and leases of power privileges:

The Secretary is authorized to enter into contracts to furnish water for municipal water supply or miscellaneous purposes * * *. *Any sale of electric power or lease of power privileges*, made by the Secretary in connection with the operation of any project or division of a project, shall be for such periods, not to exceed forty years, and at such rates as in his judgment will produce power revenues at least sufficient to cover an appropriate share of the annual operation and maintenance costs, interest on an appropriate share of the construction investment at not less than 3 per centum per annum, and such other fixed charges as the Secretary deems proper: *Provided further*, That in said sales or leases preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936. Nothing in this subsection shall be applicable to provisions in existing contracts, made pursuant to law, for the use of power and miscellaneous revenues of a project for the benefit of users of water from such project. The provisions of this subsection respecting the terms of sales of electric power and leases of power privileges shall be in addition and alternative to any authority in existing laws relating to particular projects. No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes. 53 Stat. 1194; 43 U.S.C. §485h(c) (Citation omitted.) (Emphasis added.) Thus, the 1906 Town Sites and Power Development Act provides explicit authorization to the Secretary to develop the power potential of a Reclamation project and leave the surplus power or to enter into leases of power privilege to enable non-federal hydropower development. The 1939 Act elaborates on the terms of such leases of surplus power or power privileges.[2]

3. Water Conservation and Utilization Act.—One week after enacting the 1939 Act Congress enacted the WCUA. Congress

---

[1] The Federal Energy Regulatory Commission (FERC) issued a license for non-federal hydropower development on the Jackson Gulch Dam on December 29, 1986, to Prodek, Inc. On May 23, 1988, Prodek filed an application to surrender its license. FERC issued an order accepting surrender of the license on August 31, 1988.

[2] It can be argued that the 1939 Act did not provide new authority to enter contracts for the lease of surplus power or power privileges, it merely provided additional terms to be included in contracts when authority otherwise existed to enter such contracts. In section 9, Congress selected different language with respect to furnishing water for municipal water supply or miscellaneous purposes and in determining contract terms for sale of electric power or lease of power privileges. In the case of municipal and miscellaneous water supplies, Congress expressly "authorized" the Secretary to enter contracts. On the topic of providing electric power, Congress did not authorize the Secretary to "enter contracts." Rather, Congress specified terms which could apply to "[a]ny sale of electric power or lease of power privileges."

On the other hand, several previous Solicitor's opinions list, without analysis, the 1939 Act as authority for hydropower development on Reclamation projects. See, e.g., Memorandum from Associate Solicitor, Energy and Resources to Commissioner, Bureau of Reclamation (Jan. 31, 1985) (discussing the Grand Valley Project); Memorandum from Solicitor Tarr to Commissioner, Bureau of Reclamation (July 16, 1986) (discussing Hoover Powerplant modifications). Because this opinion turns on the specific limitation in section 9 of the WCUA, the issue of whether the 1939 Act constitutes independent authority to lease power privileges is not decided here. Nor does this opinion decide the issue of the continuing applicability or scope of the 1906 Town Sites Act following enactment of the 1920 Federal Power Act and, in particular, the 1935 amendments thereto.

amended the WCUA in 1940, adding sections 9 and 10 among other changes. 53 Stat. 1418; 54 Stat. 1119. The WCUA authorizes the construction of small projects which generally would have been infeasible under the Reclamation program. Section 9 of the WCUA addresses hydropower development specifically:

In connection with any project undertaken pursuant to this act, provisions, including contracts of sale, may be made for furnishing municipal or miscellaneous water supplies, or for developing and furnishing power in addition to the power requirements of irrigation: *Provided*, * * * That no contract relating to a water supply for municipal or miscellaneous purposes or to electric power shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes. On any project where such provisions are made, the Secretary shall allocate to municipal or miscellaneous water purposes or to surplus power the part of the estimated construction costs of the project which he deems properly so allocable; and such allocations shall not be included in the reimbursable construction costs covered by the repayment contract or contracts required under section 4 [codified at 16 U.S.C. §590z–2. *All right, title, and interest in the facilities provided for such municipal or miscellaneous water supplies or surplus power and the revenues derived therefrom shall be and remain in the United States.* Contracts for such municipal or miscellaneous water supplies or for such surplus power shall be at such rates as, in the Secretary's judgment, will produce revenues at least sufficient to cover the appropriate share of the annual operation and maintenance cost of the project and such fixed charges, including interest, as the Secretary deems proper. Contracts for the sale of surplus power shall be for periods not to exceed forty years . . . *And provided further*, That in sales or leases of such power, preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936. 16 U.S.C. §590z–7 (emphasis added.) Thus, in contrast to the Town Sites Act which explicitly authorizes the lease of power privileges for non-federal development, section 9 of the WCUA explicitly authorizes the Secretary to develop hydropower and furnish the surplus power through sale or lease, subject to several conditions.

C. ANALYSIS

It has been argued that section 9 of the WCUA is not a prohibition against development of power by private parties for non-project purposes and that section 10 of the WCUA provides general authority for non-federal power development at WCUA projects. Section 10 of the WCUA provides that the "Secretary shall have the same authority, with regard to the utilization of lands owned by the United States * * * as he has in connection with projects undertaken pursuant to the Federal reclamation laws: * * *" 16 U.S.C. §590z–8(a). Under this analysis, the Town Sites and Power Development Act would authorize non-federal power development at WCUA projects, and the provision on retention of revenue by the United States contained in the WCUA would not apply.

While that argument has some appeal, according to accepted methods of statutory interpretation we believe that the better view is that section 9 of the WCUA controls hydropower development at WCUA projects and that section 9 does not authorize Reclamation to issue the necessary leases of power privilege to enable non-federal power development. Even if non-federal power development is authorized, we believe that the revenue and title restrictions would apply. Finally, it is our opinion that FERC does not have authority to license non-federal power development at WCUA projects.

1. Section 9 of the WCUA governs hydropower development at WCUA projects.—Unless there is a clear intention otherwise, a specific provision will not be controlled or nullified by a general one. *See, e.g., Crawford Fitting Co. v. J.T. Gibbons, Inc.* 482 U.S. 437, 444–45 (1987) (rejecting the claim that general authority to allow the payment of costs authorized payment of expert witness fees in excess of limitations contained in the specific witness fee provision). Of special relevance here is *Uncompahgre Valley Water Users Ass'n v. Federal Energy Regulatory Comm'n*, 785 F.2d 269, 275–76 (10th Cir.), *cert. denied sub nom. Town of Norwood v. Uncompahgre Valley Water Users Ass'n*, 479 U.S. 829 (1986), which held that a specific statute granting authority to the Department of the Interior to contract with private entities for the development and sale of surplus power at a Reclamation project takes precedence over the general licensing authority of the Federal Energy Regulatory Commission (FERC) under the Federal Power Act.[3] "[W]e believe that our conclusion is supported by the principle of construction that the more specific legislation

Section 9 of the WCUA establishes a comprehensive statutory framework specifically addressing hydropower development at WCUA projects. The command of the section is inclusive: the Secretary may make "provisions" for the development of hydropower. There is absolutely no indication in the structure of the statute itself or in its legislative history that Congress intended section 10 to override the restrictions contained in section 9 for a certain class of hydroelectric power projects. Without foundation in the statutory scheme or legislative history, such interpretation would render meaningless the revenue and title restrictions in section 9 with regard to private hydropower development at WCUA projects. In addition, the structure of the power provisions of the 1906 and 1939 Acts, which address federal and non-federal power development together in the same section, reinforces the interpretation that section 9 provides the complete authority for power development under the WCUA.

2. Section 9 does not authorize Reclamation to permit nonfederal power development at WCUA projects.—Section 9 expressly authorizes the Secretary to include production of surplus power in projects developed under the WCUA, subject to several conditions. However, we find that it does not expressly or impliedly authorize Reclamation to issue leases of power privilege at WCUA projects. Instead, we find that hydropower development at WCUA projects is reserved to the federal government.[4]

As the Supreme Court recently noted, "[n]ot every silence is pregnant." *Burns v. United States*, —— U.S. ——, 111 S.Ct. 2182, 2186 (1991) (quoting *State of Illinois Dept. of Public Aid v. Schweiker*, 707 F.2d 273, 277 (7th Cir. 1983)). The inference drawn from congressional silence will be interpreted in light of other textual and contextual evidence of congressional intent. Id.

Section 9 of the WCUA authorizes the Secretary to make "provisions, including contracts of sale * * * for developing and furnishing" surplus power. While taken alone, this could be interpreted to authorize leases of power privilege, the section goes on to refer exclusively to the sale or lease of surplus power. Thus, there is no textual evidence that Congress intended section 9 to authorize leases of power privileges.

Nor is there contextual evidence to support authority for a lease of power privilege under section 9. No legislative history supports such implication, and there is no support for the idea that omission of reference to leases of power privileges was simply an oversight. This omission is in direct contrast to the 1906 and 1939 Acts. The 1906 Town Sites Act explicitly authorizes the lease of "surplus power or power privileges." Similarly, the 1939 Act specifically references the "sale of electric power or lease of power privileges." Under the longstanding tenet of statutory construction of *expressio unius est exclusio alterius*, Where Congress has considered an issue and has included in the enacted legislation a provision explicitly addressing that issue, there is an implied exclusion of other term not mentioned. *See, e.g., Malone v. White Motor Corp.*, 435 U.S. 497, 505 (1978); *Public Serv. Co. of Colo. v. Federal Energy Regulatory Comm'n.*, 754 F.2d 1555, 1567 (10th Cir. 1985). In light of the careful attention paid by Congress in the prior statutes to including specific reference to leases of power privileges, Congress surely would have made explicit reference here had such authority been intended at WCUA projects.[5]

---

[3] Moreover, the *Uncompaghre* court had before it the language and legislative history of the 1906 Act and found that the Secretary's authority to develop hydropower rested on the project-specific statute which authorized the project. 785 F.2d at 275–76. covering the given subject-matter will take precedence 'over the general language of the same or another statute which might otherwise prove controlling,'" Id. at 276 (quoting *Kepner v. United States*, 195 U.S. 100, 125 (1904)).

[4] This interpretation of the WCUA is not inconsistent with any other opinion issued by the Solicitor's Office. however, we note that a memorandum from the Commissioner of the Bureau of Reclamation to Reclamation's regional directors listed the WCUA as general authority for the development of hydropower at Reclamation projects, and stated that hydropower is authorized to the extent found feasible in reports submitted to the President and Congress. Memorandum from Commissioner, Bureau of Reclamation, to Regional Directors and Assistant Commissioner, Engineering and Research (Oct. 23, 1986) (entitled "Criteria for Determining Federal vs. Non-Federal (FERC) Hydropower Development at Bureau of Reclamation Facilities"). The memorandum further stated that "[i]n the event we are not seeking Federal financing to develop the hydropower potential of the site, we would be willing to enter into a lease of power privilege under which a non-Federal entity would develop the site under Reclamation law using non-Federal funding." Id. at 2. However, this did not represent a legal opinion of this office and, in fact, deviated from a memorandum dated three months earlier from the Solicitor to the Commissioner discussing the same analytical approach but which did not include the WCUA as a basis for private hydropower development. See Memorandum from Solicitor Tarr to the Commissioner, Bureau of Reclamation 11 (July 16, 1986), (relating to modifications to the Hoover Powerplant).

[5] This conclusion is bolstered by the stated purpose of the WCUA. While not intended to be identical, the legislative history of the WCUA indicates that its purpose was to establish procedures for authorizing small projects more like that of the Reclamation Project Act, enacted just fourteen months earlier. *See Hearings before the Committee on Irrigation and Reclamation*, House of Representatives, 76th Cong., 3rd Sess. 29–30 (1940) (testimony of Dr. H.H. Barrows, chairman, Northern Great Plans Committee).

In fact, the WCUA does contain most of the same provisions relating to hydropower development as are contained in the 1939 Act, such as the stipulation that irrigation will not be impaired, the 40-year limitation on contracts or leases, the requirement that rates must produce power revenues at least sufficient to cover an appropriate share of O&M and

Accordingly, we cannot assume that a lease of power privilege is authorized.

3. Even if the WCUA permits non-federal power development, the restriction on revenues would apply.—Further, even if the mandate to make "provisions for development" encompasses non-federal hydropower development, the express language of the WCUA provides that the United States must retain title to all project works and all revenue from the development of hydropower facilities at projects constructed under its authority. The proposed contract amendment would not be consistent with the statute under which the project was authorized and now operates.

The most persuasive evidence that neither section 9 nor section 10 authorizes private interests to retain power revenues is found in the purpose of the WCUA and the repayment structure it established. Enacted in the Depression era, the WCUA authorized small projects that would not have been considered feasible under reclamation laws but which aided local employment through use of Work Projects Administration (WPA) and Civilian Conservation Corps (CCC) labor. See 16 U.S.C. §§590y to 590z. Local water users were required to repay only the costs allocated to irrigation. See 16 U.S.C. §§590z–1 to §§590z–2. Unlike projects under the 1939 Act which generally required the water users to repay all costs except those allocated to navigation and flood control, see 43 U.S.C. §485h(a), the U.S. Treasury absorbed much of the cost for WCUA projects in nonreimbursable labor costs.[6] At Mancos, water users were obligated to repay only $900,000 of the approximately $2 million total cost of the project; the remainder was nonreimbursable and financed by U.S. taxpayers. This supports the notion that Congress intended that revenues from power production and municipal water supply should remain with the United States to recoup these reimbursed expenditures.

4. FERC does not have authority to license non-federal power development at WCUA projects.—Thus, it is our opinion that Reclamation does not have authority to issue leases of power privilege at WCUA projects. Furthermore, under *Uncompahgre Valley Water Users Ass'n. v. Federal Energy Regulatory Comm'n.*, 785 F.2d 269, 275–76 (10th Cir.). cert. denied sub nom. *Town of Norwood v. Uncompahgre Valley Water Users Ass'n:* 479 U.S. 829 (1986), FERC lacks such authority at WCUA projects. In *Uncompahgre*, the Tenth Circuit Court of Appeals ruled that specific statutory authority regarding hydropower development at Reclamation projects divested FERC of jurisdiction under the Federal Power Act. *Id.* at 275–76. Here, the WCUA provides the specific statutory authority for the Mancos project. By the same reasoning, the WCUA divests FERC of jurisdiction to license non-federal development by reserving hydropower production to the federal government.[7]

Please feel free to contact me if you have any further questions regarding this matter.

PATRICIA J. BENEKE.

---

fixed costs, and the preference for municipalities. Since the WCUA was intended to be modeled after the 1939 Act, yet unlike the 1939 Act omits any reference to leases of power privileges, we conclude that Congress intended power development at WCUA projects to be reserved to the federal government.

[6]The Secretary could find a project feasible under the WCUA if the water users could repay the part of the costs allocated to irrigation. See 16 U.S.C. §590z–1. Under the 1939 Act, however, the Secretary could find a project feasible if the total estimated costs of construction could be allocated to irrigation, power, municipal water supply or other miscellaneous purposes, flood control, or navigation. See 43 U.S.C. §485h(a).

[7]This comports with the conclusion of a 1980 opinion from this office finding that "[W]here Congress has expressly authorized [Reclamation] to develop the hydropower potential of a project feature, the Commission's licensing authority is withdrawn, and it may not license non-Federal development of the same facility." Memorandum from Associate Solicitor, Division of Energy and Resources, to Commissioner, Water and Power Resources Service 5 (July 28, 1980). Likewise, the MOU between Reclamation and FERC provides that FERC is not authorized to issue licenses for hydroelectric power plants utilizing federal dams where hydroelectric power has been reserved exclusively for federal development. MOU, supra note 3.

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DECONCINI, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 359, a bill to require the Secretary of Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 764

At the request of Mr. WOFFORD, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 764, a bill to exclude service of election officials and election workers from the Social Security payroll tax.

S. 1175

At the request of Mr. LIEBERMAN, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Indiana [Mr. LUGAR) were added as cosponsors of S. 1175, a bill to amend the Internal Revenue Code of 1986 to allow corporations to issue performance stock options to employees, and for other purposes.

S. 1485

At the request of Mr. KERREY, his name was added as a cosponsor of S. 1485, a bill to extend certain satellite carrier compulsory licenses, and for other purposes.

S. 1634

At the request of Mr. HEFLIN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1634, a bill to authorize each State and certain political subdivisions of States to control the movement of municipal solid waste generated within, or imported into, the State or political subdivisions of the State, and for other purposes.

S. 1770

At the request of Mr. CHAFEE, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 1770, a bill to provide comprehensive reform of the health care system of the United States, and for other purposes.

S. 1805

At the request of Mr. WARNER, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 1805, a bill to amend title 10, United States Code, to eliminate the disparity between the periods of delay provided for civilian and military retiree cost-of-living adjustments in the Omnibus Budget Reconciliation Act of 1993.

S. 1842

At the request of Mr. CAMPBELL, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1842, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety and passenger vehicle safety laws, and for other purposes.

S. 1941

At the request of Mr. BUMPERS, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of S. 1941, a bill to terminate the Milstar II Communications Satellite Program.

S. 1972

At the request of Mr. BINGAMAN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 1972, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize inclusion in a community policing grant of funds to pay 25 percent of the cost of providing bulletproof vests for 100,000 police officers.

S. 2073

At the request of Mr. SMITH, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], the Senator from Virginia [Mr. WARNER), and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2073, a bill to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes.

S. 2087

At the request of Mr. BUMPERS, the names of the Senator from Utah [Mr. HATCH], the Senator from Louisiana [Mr. BREAUX], the Senator from Missouri [Mr. DANFORTH], the Senator from Arkansas [Mr. PRYOR], the Senator from Missouri [Mr. BOND], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Delaware [Mr. BIDEN], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2087, a bill to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 18, 1994.

At the request of Mr. SIMPSON, his name was added as a cosponsor of S. 2087, supra.

S. 2091

At the request of Mr. SARBANES, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2091, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

SENATE CONCURRENT RESOLUTION 65

At the request of Mr. LEAHY, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Arizona [Mr. DECONCINI), the Senator from South Dakota [Mr. DASCHLE], the Senator from North Dakota [Mr. DORGAN], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Concurrent Resolution 65, a concurrent resolution to express the sense of Congress that any health care reform legislation passed by Congress include guaranteed full funding for the special supplemental food program for women, infants, and children (WIC) so that all eligible women, infants, and children who apply could be served by the end of fiscal year 1996 and full funding could be maintained through fiscal year 2000, and for other purposes.

SENATE RESOLUTION 214—RELATING TO HEALTH CARE FOR MEMBERS OF CONGRESS

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 214

Whereas, The American people want and deserve the same high quality health care as Members of Congress; and

Whereas, The best assurance for our constituents that their health care needs will be protected is to provide them with the same high quality care we receive at a cost they can afford; and

Whereas, Members of Congress, like all federal employees, are automatically eligible under the Federal Employee Health Benefits Program (FEHBP) for health care coverage, with no pre-existing condition exclusions, and employers pay a significant portion of premium costs; and

Whereas, Premiums, cost sharing requirements (such as copayments and deductibles), benefits, and choice of caregivers vary among the plans offered under FEHBP; and

Whereas, The health plan that offers the greatest choice of caregivers, the best schedule of co-payments and deductibles, and the best package of benefits currently available through FEHBP is also the most expensive plan; and

Whereas, Members of Congress have sufficient incomes to allow them to enroll in the best health plans offered under FEHBP without spending more than three percent of their incomes; and

Whereas, The best health plans are not similarly affordable for middle and lower income federal employees; and

Whereas, All FEHBP plans are better than many health care reform proposals now before Congress in that they offer a defined package of benefits with an employer contribution; and

Whereas, Improvements are necessary even to the best plan available under FEHBP, including needed services such as full coverage for long term care and dental care, and improvements that can only be accomplished through health care reform, such as expanding public health systems and coordinating care among providers; and

Whereas, The health and well-being of our nation, and our ability to control health care costs by covering everyone for a broad array of accessible health services that will keep people healthy, require that Congress enact the best possible health care reform legislation; Therefore be it

Resolved, That the Congress should enact health care reform that guarantees everyone health care as good as the best health care that will be available to Members of Congress.

Mr. WELLSTONE. Mr. President, I send a resolution to the desk and ask that it be appropriately referred.

The PRESIDENT pro tempore. The resolution will be received and appropriately referred.

Mr. WELLSTONE. I thank the President.

Mr. President, we in the Congress are at a historic crossroads in public policy. We have an opportunity of a generation to take decisive action on health care.

This week, one of the committees in the Senate, one of the two committees that will be doing markup, that is writing the bill, the Senate Committee on Labor and Human Resources, will start our markup of the health care bill. The Senate Finance Committee is working on this, as are three committees in the House of Representatives.

At the same time we are approaching this markup, which is really where the rubber meets the road, where we really get to work writing the bill—this is the time that I think probably all of us have been looking forward to because you get beyond the rhetoric and the generalities, and you really go to work in trying to shape a piece of legislation that will work well for people—at the same time that we are getting ready to mark up these bills in committees, there is a kind of pressure on the part of some here in Congress and some in the country who are really opposed to universal health care coverage to begin to strip down the benefits, scale down the benefits, phase in universal coverage over a long period of time.

Remember, this has been essentially a century struggle, and the United States will join the other advanced economies with some kind of universal health care coverage and a decent package of benefits. When all is said and done, people in the country are not policy experts but they understand full well what will work for themselves and their families. That is what they are talking about: Will we be covered? Will we have a decent package of benefits? Will we have choice? And will be able to afford it.

Mr. President, when we go home to Minnesota, North Dakota, West Virginia, or any State in the country, one of the things people are telling us in a very, very strong way is we want you all, as our representatives, to make sure that whatever health care plan is passed, it gives us or provides us as citizens, as your constituents, with the same quality care that you receive.

So this resolution that I today referred for appropriate action reads:

Therefore be it *Resolved*, That the Congress should enact health care reform that guarantees everyone health care as good as the best health care that will be available to Members of Congress.

Mr. President, I think this is a really important principle. I think it is an important principle in representative democracy, and I think all of us are committed to it. We want to do well for our own families, and we want to make sure that the health care plan we have is the health care plan that the people we represent are also able to participate in.

I do not mean just one plan. What I mean is the same high quality, a comparable level of care.

I do not mean just one plan. What I mean is the same high quality, a comparable level of care.

What our constituents may not realize, Mr. President, is that the health insurance program that covers Members of Congress provides many different levels of health care coverage to Federal employees, depending on what they can afford to buy.

So when we talk about the Federal Employees Health Benefit Program, what we want to make sure of is that that part of the program that we can afford as Members and Representatives and Senators, in terms of packaging of benefits, in terms of choice, in terms of deductibles, in terms of copays, in terms of the same quality of care, ought to be the same plan, the same package of benefits, available to our constituents.

I did not say, Mr. President, that we are saying to people in the country that they can be in the Federal employees benefit package. We are all in it now. The problem is that people who have the highest income can get the best package within that overall program.

I am saying what is the very best available to Senators and Representatives, based on our ability to afford the very best, ought to also be the same package of benefits, the same quality of care, the same choice, the same copays available to our constituents.

I mean, we are all in the United States of America today in the same health care system. The problem is, that health care system provides the best care to those who can afford it and, all too often, no care to those who cannot afford it.

So when we talk about the Federal benefit package, a health insurance

program, we have to be careful to make the distinction that what we can afford as Representatives and Senators ought to be the same plan that is available to our constituents.

Mr. President, I introduced this resolution today and referred it for appropriate action because as we move to mark up, I just do not want Representatives and Senators to be stripping away from a good package of benefits when we in fact can afford that package of benefits.

I think it is extremely important that in this final health care plan, we make sure that what we vote on, and again I refer to the resolution:

Therefore be it *Resolved*, That the Congress should enact health care reform that guarantees everyone [in our country] health care as good as the best health care that will be available to Members of Congress.

Mr. President, let me just give some examples of this health care plan, the best one in the Federal employees benefits package, which is the one I picked because it is one each Representative and Senator can afford. We might note that all Representatives and Senators do not choose to pick this plan, but it is one that all of us can afford.

What we do not want to have in the country is a lot of stratification where citizens in theory are participating in the same plans, but actually it is sort of based upon your ability to pay how much choice you have, how much you are going to pay in copays and deductibles, and for that matter, what the package of benefits are.

Let me kind of itemize some of what we have. By the way, I think it is real important for me as a Senator on the floor to make it clear, contrary to some of the bashing that is taking place in this country, that Senators and Representatives do not have free health care.

I mean, people really believe that we do. We do not. And I think it is also important to make it clear to people that some of what is in our plan or what is not in our plan really calls for real improvement. It is by no means as good as some plans that people have. But, overall, it is a pretty solid plan and I want to talk about it.

Annual deductible: $150 for all services. Inpatient hospital deductible: No deductible for inpatient. Hospital copayment: None.

And I am just summarizing.

Other copayments: 80 percent for all other services. Catastrophic stop loss: After plan participants pay $2,200 per year out of network, or $1,500 in network, the plan pays 100 percent of all health care expenses for the rest of the year. Mental health and substance abuse: No deductible for inpatient mental health services if network providers are used, and the deductible for out of network use is the same as for any other inpatient service. Patient copayment for outpatient mental health and substance abuse services are only 30 percent, and 50 visits a year are covered.

Benefits. The specific list of covered services that are better than those in most current standard insurance plans I want to outline and they include:

Certain organ/tissue transplants and donor expenses; well child care; allergy tests and services; delivery at birthing centers; coverage of care by nursing midwives; home nursing care, prescription drugs; Pap smears once a year for women age 18 and over; home health care, home hospice, and respite care; mammograms every year for women age 50 to 64; diagnosis and treatment of infertility; 100 percent coverage for emergency room care and related states.

Mr. President, some things are not covered. Institutional long-term care in nursing homes is not covered. And we do not provide dental coverage—and we could do better—and we do not provide vision care. So it is not a perfect plan.

Mr. President, the reason that I introduce this resolution today is that I want this resolution to be the benchmark as we go to committees. It seems to me that it is a reasonable proposition that the best health care plan for Senators and Representatives in the Federal employees benefit package—and there are many different plans; I am not talking about everybody being in the overall plan, I am talking about what we can afford in terms of the package of benefits and reasonable copays and deductibles—ought to be the same plan that we vote for our constituents.

I hope to receive much support. I think it is a very reasonable proposition. I will certainly be asking Senators to support this. This will be my yardstick for working in committee as we move in the markup on Labor and Human Resources, and I certainly hope that will be the case with the Senate Finance Committee, as well.

Mr. President, let me conclude by just repeating one or two points.

First, people in the country, do not engage in the bashing. It just denigrates into an across-the-board denigration of public service in our country and it is a huge mistake for democracy.

Second, do not assume that people have free health care coverage in the U.S. Senate or in the House of Representatives. We do not, for ourselves or our families.

Third, do not assume it is perfect coverage. We do not have long-term care, it is not good dental, it is not good vision. We can, frankly, do better, and I hope well we will do better, for ourselves and our families. But, most important of all, I hope, whatever we do for ourselves and our families, we do for our constituents.

I think the benchmark should be right now in this Federal employees benefits package which is being discussed rather widely here in the Congress. There is a whole menu, a cafeteria of a plan.

Some people can only afford this plan. We can afford the best as described in the package of benefits, the best as described in low deductibles and copays, so we can go out there and purchase that care when we need it for ourselves. That is the plan, the one that we can afford, the high-cost plan which ought to be available to our constituents. That is what this resolution says.

I am going to be pushing this very hard in committee in terms of a package of benefits and I will also be pushing very hard as this whole debate goes forward.

AMENDMENTS SUBMITTED

SAFE DRINKING WATER ACT AMENDMENTS OF 1994

DECONCINI (AND OTHERS) AMENDMENT NO. 1711

Mr. DECONCINI (for himself, Mrs. HUTCHISON, and Mr. MCCAIN) proposed an amendment to the bill (S. 2019) to reauthorize and amend title XIV of the Public Health Service Act, commonly known as the Safe Drinking Water Act, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. . SEWAGE TREATMENT ALONG THE UNITED STATES–MEXICO BORDER.

(a) DEFINITIONS.—As used in this section:

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

(2) BORDER STATE.—The term "border State" means each of the following States:

(A) Arizona;

(B) California;

(C) New Mexico; and

(D) Texas.

(3) COMMISSION.—The term "Commission" means the International Boundary and Water Commission, or a successor agency of the International Boundary and Water Commission.

(4) COMMISSIONER.—The term "Commissioner" means the United States Commissioner of the International Boundary and Water Commission, or the head of a successor agency of the International Boundary and Water Commission.

(5) CONSTRUCTION.—The term "construction" has the meaning provided the term under section 212(1) of the Federal Water Pollution Control Act (33 U.S.C. 1292(1)).

(6) TREATMENT WORKS.—The term "treatment works" has the meaning provided the term under section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

(7) BORDER AREA.—The term "border area" has the meaning provided the term under Article 4 of the Agreement Between The United States Of America And The United Mexican States On Cooperation For The Protection And Improvement Of The Environment In The Border Area (signed August 14, 1983,

commonly known as the "La Paz Agreement").

(b) CONSTRUCTION ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Administrator is authorized to—

(A) transfer funds—

(i) to the Secretary of State, who shall transfer the funds to the Commissioner for use by the head of the United States Section of the Commission to carry out an eligible project described in paragraph (2); or

(ii) To the head of any other Federal agency to carry out an eligible project described in paragraph (2); and

(B) make a grant—

(i) to an appropriate entity designated by the President; or

(ii) to a border State;

to pay for the Federal share of the cost of carrying out an eligible project described in paragraph (2).

(2) Eligible project.—An eligible project described in this paragraph is a project for the construction of—

(A) a treatment works to protect the public health, environment, and water quality from pollution resulting from inadequacies or breakdowns in treatment works and water systems from Mexican wastewater affecting United States waters or water and sewage systems; and

(B) a treatment works to provide treatment of municipal sewage and industrial waste in the United States-Mexico border area for treatment of high priority international wastewater pollution problems; constructed under appropriate standards under the laws of the United States and Mexico and under applicable treaties and international agreements.

(3) Federal share.—The Federal share of the cost of carrying out an eligible project that is the subject of a transfer or grant under paragraph (1) shall be 100 percent.

(c) Authorization of Appropriations.—

(1) Available funds.—The Administrator is authorized to use such funds as made available to the Environmental Protection Agency under the heading "Water Infrastructures/State Revolving Funds" under the heading "Environmental Protection Agency" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994 (Public Law 103-124; 107 Stat. 1294), as is necessary to carry out this section.

(2) Authorization of appropriations.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section such sums as may be necessary for fiscal year 1995, and for each fiscal year thereafter.

GREGG (AND COVERDELL) AMENDMENT NO. 1712

Mr. GREGG (for himself and Mr. COVERDELL) proposed an amendment to the bill S. 2019, supra; as follows:

On page 74, between lines 5 and 6, insert the following new paragraph:

"(8) WAIVER OF PENALTIES THAT RESULT FROM UNFUNDED FEDERAL MANDATES.—

"(A) DEFINITIONS.—As used in this paragraph:

"(i) FUNDS.—The term 'funds' means amounts provided by the Federal Government to a political subdivision, including amounts that must be repaid by the subdivision.

"(ii) UNFUNDED FEDERAL MANDATE.—The term 'unfunded Federal mandate' means a requirement that a political subdivision undertake a specific activity, or provide a service, in accordance with this title during a period, to the extent that the Federal Government does not provide, directly or indirectly, funds that are necessary to undertake the activity or provide the service during the period.

"(B) WAIVER OF PENALTIES.—The Administrator may not commence a penalty assessment proceeding under this subsection against a political subdivision, and any pending penalty or penalty assessment or collection proceeding under this subsection against a political subdivision shall be waived, if the noncompliance of the subdivision that is the subject of the penalty or proceeding results from an unfunded Federal mandate.

IMPROVING AMERICA'S SCHOOLS ACT

WOFFORD AMENDMENT NO. 1713

(Ordered to lie on the table.)

Mr. WOFFORD submitted an amendment intended to be proposed by him to the bill (S. 1513) entitled "Improving America's Schools Act of 1993"; as follows:

On page 261, between lines 2 and 3, insert the following:

"SEC. 5111. INNOVATIVE PROGRAMS.

"(a) IN GENERAL.—From amounts reserved under section 5112(d) for each fiscal year, the Secretary shall award grants to local education agencies described in section to enable such agencies to conduct innovative programs that—

"(1) carry out the purpose of this part; and

"(2) do not involve magnet schools.

"(b) APPLICABILITY.—Sections 5103, 5106, 5107 and 5108, and shall not apply to grants awarded under subsection (a).

On page 261, line 4, strike "SEC. 5111." and insert "SEC. 5112.".

One page 261, between lines 20 and 21, insert the following:

"(d) INNOVATIVE PROGRAMS.—The Secretary shall reserve 5 percent of the funds appropriated under subsection (a) for each fiscal year to award grants under section 5111.

SAFE DRINKING WATER ACT

FAIRCLOTH (AND OTHERS) AMENDMENT NO. 1714

Mr. FAIRCLOTH (for himself, Mr. CRAIG, Mr. NICKLES, Mr. BROWN, Mr. SMITH, Mr. GRASSLEY, Mr. GRAMM, Mr. HELMS, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, and Mr. KEMPTHORNE) proposed an amendment to the bill (S. 2019) to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") and for other purposes; as follows:

Beginning on page 22, strike line 12 and all that follows through page 23, line 8.

On page 23, line 10, strike "1478" and insert "1477".

On page 23, line 23, strike "1479" and insert "1478".

On page 118, line 11, strike "1479" and insert "1478".

WALLOP AMENDMENT NO. 1715

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill, S. 2019, supra; as follows:

At the end of the bill, add the following language:

SECTION 1.

(a) Any rule proposed pursuant to authority under this Act shall during the period after publication and before the rule becomes effective be subject to review by Congress as provided in section 2.

(b) DISPOSAL REQUIRED.—If a rule is reviewed pursuant to section 2, the rule shall not take effect unless a review resolution is disposed of as required under Section 2(b)(4) and Section 2(b)(5).

(c) If Congress adjourns sine die at the end of a Congress prior to disposition of a Review Resolution as provided in Section 2, the regulation will not become final.

SEC. 2. CONGRESSIONAL REVIEW.

(a) PETITION OF REVIEW.—If one-fifth of either House, duly chosen and sworn, sign a petition requesting congressional review of a regulation described in section 1, the Congress shall consider a joint resolution (referred to as a "review resolution") as provided in subsection (b).

(b) CONGRESSIONAL CONSIDERATION OF REVIEW RESOLUTION.—

(1) Terms of the resolution.—For the purposes of subsection (a), the term "review resolution" means a joint resolution that—

(A) is introduced within the 2-day period beginning on the date on which a petition is filed pursuant to subsection (a);

(B) does not have a preamble;

(C) states after the resolving clause "That Congress disapproves and repeals the regulations promulgated on XX", the blank space being filled in with the date on which the regulations were promulgated and a description of the regulation; and

(D) is entitled a "Joint resolution disapproving the regulations promulgated on XX", on the blank space being filled with the date and agency.".

(2) Referral.—(A) A review resolution that is introduced in the House of Representatives shall be referred to the committee of jurisdiction.

(B) A review resolution that is introduced in the Senate shall be referred to the committee of jurisdiction.

(3) Discharge.—If the committee to which a review resolution is referred has not reported the resolution (or an identical resolution) by the end of the 5-day period beginning on the date on which the petition is filed, such committee shall, at the end of that period, be discharged from further consideration of the resolution, and the resolution shall be placed on the appropriate calendar of the House of Representatives or the Senate, as the case may be.

(4) Consideration.—(A)(i) On or after the first day after the date on which the committee to which a review resolution is referred has reported, or has been discharged (under paragraph (3)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution (but only on the date after the calendar day on which the member announces to the House concerned the member's intention to do so).

(ii) All points of order against a review resolution (and against consideration of the resolution) are waived.

(iii)(I) A motion to proceed to the consideration of a review resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable.

(II) A motion described in subclause (I) is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business.

(III) A motion to reconsider the vote by which a motion described in subclause (I) is agreed to or not agreed to shall not be in order.

(IV) If a motion described in subclause (I) is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the review resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B)(i) Debate on a review resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing the resolution.

(ii) An amendment to a review resolution is not in order.

(iii) A motion further to limit debate on a review resolution is in order and not debatable.

(iv) A motion to postpone consideration of a review resolution, a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(v) A motion to reconsider the vote by which a review resolution is agreed to or not agreed to is not in order.

(C) Immediately following the conclusion of the debate on a review resolution and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House of Representatives or the Senate, as the case may be, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or of the Senate, as the case may be, to the procedure relating to a review resolution shall be decided without debate.

(5) CONSIDERATION BY OTHER HOUSE.—(A) If, before the passage by one House of a review resolution that was introduced in that House, that House receives from the other House a review resolution.

(i) the resolution of the other House shall not be referred to a committee and may not be considered in the House that receives it otherwise than on final passage under clause (ii)(II); and

(ii)(I) the procedure in the House that receives such a resolution with respect to such a resolution that was introduced in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(B) Upon disposition of a review resolution that is received by one House from the other House, it shall no longer be in order to consider such a resolution that was introduced in the receiving House.

(6) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress.

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a review resolution, and it superseded other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

STEVENS (AND MURKOWSKI) AMENDMENT NO. 1716

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed amendment to the bill S. 2019, supra; as follows:

On page 12, line 1, add a carriage return immediately after "DIRECT GRANTS.—", indent the text thereafter through line 8 as a separate paragraph, and insert "(1) IN GENERAL.—" immediately before "The".

On page 12, line 8, strike the period and insert in lieu thereof "; and".

On page 12, between lines 8 and 9, insert the following new paragraph:

"(2) ALASKA NATIVE VILLAGES.—In the case of a grant for a project under this subsection in an Alaska Native village, the Administrator is also authorized to make grants to the State of Alaska for the benefit of Native villages. An amount not to exceed 4 percent of the grant amount may be used by the State of Alaska for project management.

MURKOWSKI (AND STEVENS) AMENDMENT NO. 1717

Mr. STEVENS (for Mr. MURKOWSKI, for himself and Mr. STEVENS) proposed an amendment to the bill S. 2019, supra; as follows:

On page 68, between lines 10 and 11, insert the a new subparagraph:

"' (I) For purposes of this subsection, the State of Alaska shall be considered a region.".

BOXER (AND OTHERS) AMENDMENT NO. 1718

Mrs. BOXER (for herself and Mr. BRADLEY, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MIKULSKI, Mr. METZENBAUM, Mr. LEAHY, Mr. KOHL, and Mr. CHAFEE), proposed an amendment to the bill S. 2019, supra; as follows:

On page 7 of the manager's amendment, after line 20, insert the following:

(iv) the effects of the contaminant upon subpopulations that are identified as being at greater risk for adverse health effects in the research and evidence described in section 1442(j).

On page 18, line 13 of the manager's amendment, strike "." and insert after "water" the following:

"In characterizing the health effects of drinking water contaminants under this Act, the Administrator shall take into account all relevant factors, including the margin of safety for variability in the general population and the results of research required under this subsection and other sound scientific evidence (including the 1993 and 1994 reports of the National Academy of Sciences) regarding subpopulations at greater risk for adverse health effects."

NUTRITION LABELING AND EDUCATION ACT EXTENSION ACT OF 1994

BUMPERS (AND HATCH) AMENDMENT NO. 1719

Mr. FORD (for Mr. BUMBERS for himself and Mr. HATCH) proposed an amendment to the bill (S. 2087) to extend the time period for compliance with the Nutrition Labeling and Education Act of 1990 for certain food products packaged prior to August 18, 1994; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

Before August 8, 1994, sections 403(q) and 403 (r)(2) of the Federal Food, Drug, and Cosmetic Act, and the provision of section 408(i) of such Act added by section 7(2) of the Nutrition Labeling and Education Act of 1990, shall not apply with respect to a food product which is contained in a package for which the label was printed before May 8, 1994 (or before August 8, 1994, in the case of a juice or milk food product if the person responsible for the labeling of such food product exercised due diligence in obtaining before such date labels which are in compliance with such sections 403(q) and 403(r)(2) and such provision of section 408(i)), if, before June 15, 1994, the person who introduces or delivers for introduction such food product into interstate commerce submits to the Secretary of Health and Human Services a certification that such person will comply with this section and will comply with such sections 403(q) and 403(r)(2) and such provision of section 408(i) after August 8, 1994.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Tuesday, May 24, 1994, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2075, to amend the Indian Child Protection and Family Violence Prevention Act to reauthorize and improve programs under the act; and S. 2074, the Crime Victim Assistance Improvement Act.

Those wishing additional informational should contact the Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. Ford. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on May 17, 1994, at 10 a.m. On pending committee business.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. Ford. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate

on Tuesday, May 17, at 10 a.m. To hold a hearing on the Chemical Weapons Convention—Treaty Doc. 103-121.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, May 17, at 9:30 a.m. for a hearing on: Exports in the 1990's.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, May 17, 1994, beginning at 2:30 p.m., in 106 Dirksen Senate Office Building on proposals to amend the Indian Gaming Regulatory Act.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and Humanities be authorized to meet on May 17, 1994, at 3:30 p.m. for an execution session to consider S. 1513, Improving America's Schools Act.

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

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, May 17, 1994, at 10 a.m. the Committee will hold a full committee on the issue of prepayment of section 503 Development Company Loans and on the section 504 Development Company Loan Program.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 17, 1994 at 3 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources and the Subcommittee on Children, Family, Drugs and Alcoholism be authorized to meet for a joint hearing on Before Dreams Disappear: Preventing Youth Violence, during the session of the Senate on May 17, 1994, at 9:30 a.m.

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

SUBCOMMITTEE ON EDUCATION, ARTS AND THE HUMANITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Education, Arts and the Humanities be authorized to meet for a hearing on Minorities in Higher Education, during the session of the Senate on May 17, 1994, at 10 a.m.

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

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., May 17, 1994.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. FORD. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science and Transportation be authorized to meet on September 17, 1994, at 2:30 p.m. on Earthquake Program Reauthorization.

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

SUBCOMMITTEE ON TOXIC SUBSTANCES, RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, May 17, beginning at 9:30 a.m., to conduct a hearing on reauthorization of the Toxic Substances and Control Act.

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

ADDITIONAL STATEMENTS

NAVAL AVIATION

• Mr. D'AMATO. Mr. President, the budget process for fiscal year 1996 is in full swing over in the Pentagon, and some of the early reports are disturbing in the extreme. In particular, naval aviation appears to be teetering on the brink of catastrophe.

As my colleagues know, the proposed 1995 budget request terminates each Navy and Marine helicopter program but the AH-1W. Fixed-wing aircraft procurement drops to 40, with an additional 4 remanufactures. This is well below attrition.

Now, I read that the proposed fiscal year 1996 budget will slash 24 of 48 F/A-18C/D's, 24 of 72 F/A-18E/F's, 18 of 18 AH-1W's, 1 of 16 E-2C's, and a bevy of air-to-air and air-to-ground weapons from the fiscal year 1995-99 5-year defense plan. V-22 and armed SH-60B will slip a year and F-14 upgrades will be gutted. One wonders just what is going to be left of naval aviation by the time the CVN-76 is christened.

Just for fun, I urge my colleagues to request copies of the latest naval aviation plan [NAP], if it exists. The NAP, when it is published, includes projections of aircraft requirements versus inventory over then next several decades. My colleagues may be surprised to discover that the Navy will be experiencing significant shortfalls in almost every category of aircraft. Something to consider when we are asked to support yet another multibillion-dollar aircraft carrier this year.

In the meantime, I would like to share an article from the May 9, 1994, edition of Defense Week by Eric Rosenberg entitled "To Meet Budget Targets, Big Cuts Proposed by Navy Aviators." I ask that the article be included in the RECORD at the end of my remarks.

The article follows:

[From Defense Week, May 9, 1994]

TO MEET BUDGET TARGETS, BIG CUTS PROPOSED BY NAVY AVIATORS

(By Eric Rosenberg)

The Navy is recommending steep cuts to a front-line fighter bomber and its top-priority costly successor, according to internal documents obtained by Defense Week. In addition, the documents detail delays to the V-22 tilt rotor, the Marine Corps' No. 1 program.

The Navy is also seeking to either kill or slow several other major aviation-related projects, including AMRAAM and SLAM missile variants, the documents said.

The multi-billion dollar program cuts were detailed in a 50-plus page April 12 memorandum written by the Navy's air warfare division. The cuts underscore an intense Pentagon debate as the service slashes its mainstay programs to meet budget reduction targets in fiscal 1996 and beyond.

The document doesn't tinker with the overall force level laid out in the "bottom-up" review, the guiding precepts of the Clinton-era Pentagon. That document recommended a 12-aircraft carrier Navy, 11 service air wings and four Marine air wings.

Should the Navy and Pentagon leadership accept them, the proposals will significantly hurt the balance sheet of McDonnell Douglas Corp., maker of the F/A-18 E/F. The proposals will also wound an industrial team of Bell-Helicopter Textron Inc. and the Boeing Co.'s helicopter unit, makers of the V-22 Osprey.

At press time, reports were circulating in the Navy that the service leadership was scrambling to overrule the F/A-18 E/F reduction. But the reports could not be independently verified.

Senior Navy officials conducting the budget planning told the aviation segment "to accept modernization reductions to emphasize recapitalization," the document said. The aviation segment also was told to "accommodate acquisition adjustments."

"Recapitalization" is the Navy's far-reaching effort to close bases and retire older model ships, planes and submarines to pay for new state-of-the-art equipment.

The military services currently are in the throes of crafting their program objectives memoranda, or POM, the long-range budget blueprint. They are scheduled to complete the planning by May 20, when the recommendations will be forwarded to Defense Secretary William Perry's staff for review. The Pentagon will work through the summer on the spending plan, which will form the

basis of the fiscal 1996 submission to Congress next January.

A senior Navy official familiar with the proposals said last week there was little "gold-watching" in the plans, a reference to disingenuous budgeting.

According to the documents, the Navy is proposing to slash 24 F/A-18 C/Ds from long-range plans, worth approximately $1.4 billion. Twelve would be cut from the 24 jets that were planned for fiscal 1996 and 12 from fiscal 1997. The action would stop production after the fiscal 1996.

The recommendations also would pare 12 F/A-18 E/F models from fiscal 1998, leaving on the books 12 jets, and another 12 jets in fiscal 1999, leaving 24 planes. The proposal would slash $1.5 billion from the program. Twelve planes would be added to fiscal 2001, upping procurement from 36 to 48 jets.

The latter proposal is especially noteworthy, as the aircraft is the Navy's stated No. 1 priority. It is being designed as the service's cornerstone jet of the future, able to perform bombing and fighter missions. But a senior Navy official claimed the action didn't signify slipping Navy support.

Asked about the proposals, Lt. Jim Fallin, a Navy spokesman said: "The navy is in the process of looking at various options on how best to structure our forces to meet current and future requirements within fiscal constraints. It would be inappropriate to discuss that process while it is still on-going."

Concerning another top-priority project, the V-22, the document offered scant detail other than comment, "Slide V-22 procurement." The Marines were planning to buy their No. 1 priority tilt rotor beginning in fiscal 1997, but a chart accompanying the documents shows production beginning one year later.

A senior Navy official said this recommendation, which could draw the wrath of lawmakers and White House program supporters, was up for negotiation.

Other key actions the Navy aviation branch recommended included ending the Bell Helicopter Textron Inc. AH-1W helicopter program after fiscal 1995. The service had planned to buy 18 of the choppers in fiscal 1996 and 1997. The action will pare some $220 million from the books. It also will necessitate the procurement of a successor helicopter six years sooner than planned, the documents said.

The Navy had planned to buy four new E-2C Hawkeye surveillance planes annually through fiscal 2001. But the service has proposed buying only three E-2Cs in fiscal 1996, saving $58 million.

In a challenge to Pentagon civilians, the Navy is proposing the cancellation of the F-14 block I upgrade, an effort to outfit Tomcats with laser-guided bomb capability.

The Navy authors understood that this was a risky proposition because it was "specifically endorsed by the secretary of defense in the bottom-up review," said the documents. In the program's place, the service is proposing a cheaper, "slowed F-14 A/B upgrade program."

The documents said the service wants to end its commitment to the Air Force-led Advanced Medium-Range Air-To-Air Missile's pre-planned product improvement. The Navy proposed cancelling the effort "due to fiscal constraints." Additionally, the Navy wants to "slow procurement of AMRAAM down" to save money.

Also offered up for termination was the Advanced Rocket System, designed to replace 2.75-inch and five-inch rockets. The Navy will instead buy additional 2.75-inch systems.

In addition, the service proposed a steep reduction to the AV-8B remanufacture program, also a McDonnell Douglas effort. Where the Marine Corps was seeking to rebuild 86 jets with new equipment from fiscal 1996 through 2001, the Navy is proposing 64 jets over the same period, paring $503 million. The Navy said the proposal "retains flexibility" and that "new aircraft remain a future option."

Other key actions proposed by the Navy:

"Slowing down" the AIM-9X Sidewinder successor;

Delaying fielding of the Joint Standoff Weapon "BLU-108" two years to fiscal 2003. The unitary warhead is unaffected;

Delaying procurement of the Joint Primary Aircraft Trainer System by one year until fiscal 1998;

Delaying funding of the SH-60B armed helicopter from fiscal 1996 to 1997; slipping fielding one year to fiscal 1999;

Reducing the P-3 maritime patrol aircraft force levels significantly. Last year, the Navy planned a fleet of 13 active and nine reserve P-3 squadrons. A new proposal on the table calls for cutting the force to six active and six reserve squadrons, with two squadrons forward deployed;

Cancelling the Standoff Land Attack Missile expanded response variant and signing up to the Air Force-led Tri-Service Standoff Attack Missile.•

TURKISH DEMOCRACY? FREE MEHDI ZANA

• Mr. DECONCINI. Mr. President, I am compelled to recount to this body an incident which reflects a growing and most disturbing trend by the Government of Turkey to restrict free speech on the Kurdish issue. As I speak today, I sadly recall similar statements I have made on behalf of political prisoners who spoke out and then suffered at the hands of authoritarian Communist rulers behind the iron curtain.

Last Friday, Mehdi Zana, a man whom I have met and for whom I hold deep respect, was jailed for 4 years for a speech he delivered at the European Parliament in October 1992. Mr. President, Zana is a man of honor and peaceful intentions who has struggled for more than 30 years for the cause of human rights in Turkey. He has already spent 15 years in jail and has been tortured because he refused to remain silent about the injustices visited upon his Kurdish brothers and sisters. Leyla Zana, his wife, is one of six Turkish parliamentarians who face the death penalty for statements they made in support of Kurdish rights.

Mr. President, I am frightened not only for the fate of the Zana family, but for the future of Turkish democracy itself. The situation in southeast Turkey has deteriorated to the point where violence has become the most common form of discourse between Turks and Kurds. It is a tragic irony that thousands of Turkish Kurds are presently being forced to seek refuge in northern Iraq—taking the reverse route of Iraqi Kurdish refugees who fled Saddam Hussein's war machine. Turkish security forces seem to be creating a buffer zone along the Iraqi border to prevent infiltration by the PKK and hundreds of villages have been destroyed and their inhabitants forced to flee—a pattern which has been compared to ethnic cleansing conducted by the Serbs in Bosnia.

Mr. President, as I have in the past, I once again condemn PKK terrorism. Terrorist violence is never, I repeat, never, a legitimate means of securing political objectives in a democratic state. I am acutely aware of the severity of the PKK threat, but firmly believe all of Turkey's Kurdish citizens cannot be labeled PKK supporters. The fight against terrorism must not be waged at the expense of the legitimate rights of all Turkish citizens. Turkey's Kurds, whether in Istanbul or Diyarbakir, must be allowed to express their cultural identity and to participate in the political process.

Aside from my overriding human rights concerns, however, my major motivation for speaking out is that, given my belief that Turkey is a most valuable ally, I cannot remain silent as Turkey's Government pursues policies which have no hope of ending the violence. I am convinced that these policies further threaten democracy and regional stability. The $7 billion the Turkish Government spends each year to fight the PKK could be better used to address Turkey's serious economic woes. As a friend and supporter of Turkey, I have to express my frustration with the Government for not seeking a political solution to a crisis which cannot be solved by military means or crude attempts to restrict free speech.

Mr. President, yesterday, STENY HOYER and I, as chairmen of the Helsinki Commission, sent a cable to Prime Minister Ciller urging the immediate release of Mehdi Zana. I wish to submit to the RECORD a copy of the appeal he delivered before the European Parliament which resulted in his 4-year jail sentence. Successive Turkish Governments have committed themselves to upholding numerous international human rights conventions which include free speech protections. The increasingly frequent practice of arresting those who speak out peacefully for Kurdish rights is an affront to democracy and violates Turkey's stated international commitments. What follows is the text of the speech which serves as the basis for Mehdi Zana's being in jail now as I speak. So again, Mr. President, I call for his immediate release, and urge my colleagues to follow suit.

The text follows:

OCTOBER 26, 1992.

AN APPEAL FROM MEHDI ZANA TO THE EUROPEAN PARLIAMENT, TO ALL HUMAN RIGHTS ADVOCATES, AND TO THE PRESS

Ladies and Gentlemen, let me first heartily thank you for your presence here today at this press conference.

My name is Mehdi Zana. I am 52 years old. For 30 years I have fought for the recogni-

tion of the rights of the Kurdish people in Turkey. In spite of the fact that I was never involved in any act of violence, I had to spend 15 years of my life in Turkish prisons because of my opinions and pacifist struggle for my people. I am one of the few miraculous survivors of the sinister Diyarbakir prison where so many of my companions died under torture. My eye-witness account of the unspeakably brutal and sadistic torture proceedings is included in the publication "Journal of Barbarity" currently being translated from Turkish to French. I owe my survival to the mobilization of public opinion, to NGOs and to the Western mayor colleagues in my favor.

I say colleagues, because I was mayor of Diyarbakir, the politico-cultural capital of Turkish Kurdistan. The population of this city which amounted to 400,000 inhabitants in 1977 had elected me mayor by direct universal suffrage. At that time, I practiced the trade of tailor and I was an independent activist. The military coup d'etat of September 1980 dissolved my municipal council. I was arrested and incarcerated only to be released in May 1991. Since then, I have again been arrested twice. At this time, I, like all other Kurds condemned of the "crime of separatism", am deprived of my political rights for the rest of my life. Such is democracy—Turkish style! Finally I must emphasize that while continuing to struggle pacifically for the recognition of the rights of 15 million Kurds of Turkey, I am not a member of any party or movement.

Thus, it is as an independent Kurdish activist, that I address myself to you and through you to public opinion to the conscience of the civilized world, so that a cry of alarm may be sent forth.

The Kurds of Turkey are experiencing at this time one of the most dramatic moments in their history. Our cities and villages have been systematically destroyed, our forests burned. Using military and economic means, Turkey has forced the Kurdish people to evacuate their ancestral lands. Girls and women of the villages are insulted and raped by Turkish soldiers. Homes are looted, Kurdish journalists and intellectuals are assassinated one after another in broad daylight. People arrested on the pretext of interrogation are tortured to death by barbaric methods. Prisons are filled with children and youth under 18. Legal and illegal state organizations known as counter-guerilla units or as special units have the authorisation to act freely as they please. They have the power of life and death over those questioned. The last measure taken by the National Security Council protects members of the security forces against prosecution for actions committed in the exercising of their functions and prohibits the press from reporting these incidents.

Our maternal language, Kurdish, still remains prohibited. Offenders are arrested and mistreated at police stations. One example among so many others, illustrates this prohibition de facto: barely 15 days ago in Diyarbakir, the security forces intervened in the wedding ceremony of a Kurdish lawyer, Fikret Akias, broke the Kurdish musical instruments and arrested several people including 7 lawyers.

State television by way of propaganda programs incites the Turkish people to rise up against the Kurdish population established in Anatolia. The ideas which suggest a ban on doing business with the Kurds, on furnishing them with work have appeared on these openly distributed tracts. The latest violent events against the Kurds in the city of Fethiye in the West of the country give evidence of the severity of the situation. Chased by the violence perpetrated in their region, the Kurdish population no longer knows where to shelter themselves, where to live in security. In fear they wait to die at any moment. The risk of a Kurdish-Turkish racial war is growing larger every day.

Whole hours would not suffice were I to begin to enumerate for you the cases of assassination, of torture and destruction which I have witnessed, the tragedy which my people are experiencing even as I stand before you. In the press kit, you will find numerous facts, figures and eye-witness accounts on this subject.

Is it still possible to imagine that at the dawn of the twenty-first century, a people can still be deprived of the use of its own mother tongue, of the expression of its identity?

The democratic promises, the speeches on the respect of human rights which thoroughly dominated the October 1991 legislative elections, over the course of moving electoral meetings, promises for the respect of the rights and demands of the Kurdish people made by the governmental coalition of the DYP and the SHP which emerged from the elections, which had worried over the massive support of Kurdish voices for the candidates of the HEP party, gave birth to real hope. The current Prime Minister Demirel, barely 5 days after his nomination, publicly affirmed during a televised speech which surprised everyone, that henceforth Turkey would recognize the Kurdish reality in the East and West of the country, that it would establish an egalitarian policy permitting a common life between the Kurdish and Turkish people.

Mr. Demirel also displayed his faith in a henceforth unrestricted democracy and his willingness to put an end to all anti-democratic laws, to develop a new Constitution which would take contemporary reality and values into consideration.

Since then, not only has not a single anti-democratic law inherited from the military junta and aiming to wipe out the rights of the Kurdish people been abolished, but on the contrary, the promulgation of new repressive laws almost inspire a nostalgia for the military regime.

At this time in Turkey not a single investigation nor trial is underway concerning so many journalists and intellectuals, against the forces which destroyed and set fire to cities such as Sirnak, Cizre, Kulp, Vario and so many others which you will find listed in the press kit.

Meetings on democracy and on human rights have been prohibited in the Kurdish provinces. Censorship rages in full force to prevent the circulation of independent news on the barbarity of the war running rampant in Kurdistan. Not a single journalist is authorized to go to the scene of army operations. Even the parliamentarians of the region are denied the right to approach the regions concerned.

A new administrative measure has just transferred the prerogatives of the Regional Prefect to the military. Kurdistan is now governed by an undeclared State of siege administration and completely left to the good will of the army.

About three weeks ago, the IFHR delegation which visited Turkish Kurdistan was not authorised to go to the cities of Sirnak and Cizre. They will be able to testify to the situation themselves.

I sincerely believe that the Turkish regime never opted for democracy. This notion remains only in the speeches destined to mislead the civilised world. If we make a careful assessment of the current government over the past year, we will not find any arrangements made to further the respect of human rights.

I send forth publicly an appeal to all those who are enamoured of liberty and democracy to act to stop the Turkish government's policy which aims at the pure and simple extinction of the Kurdish people, to act in order to finally permit this people to live in dignity and in peace.

I invite journalists, parliamentarians, NGOs to investigate on the spot, to pierce the wall of silence which surrounds the destruction of my country and my people.●

HOMICIDES BY GUNSHOT IN NEW YORK CITY

● Mr. MOYNIHAN. Mr. President, I rise today to announce to the Senate that 8 people were killed this week in New York City by gunshot, bringing the total in 1994 to 368.

The epidemic of violence caused by handguns and handgun ammunition continues to grow more serious, and the homicide statistics—frightening as they are—do not tell the whole story. The Justice Department reported this week that the number of nonfatal crimes committed with a handgun rose to a record level during 1992. Specifically, handguns were used in over 917,500 nonfatal crimes—almost 50 percent more than the average for the previous 5 years. The FBI reported an additional 13,200 handgun homicides during the same year, a 24 percent increase over the 5-year average.

I have proposed that we ban or tax heavily certain rounds of particularly insidious handgun ammunition. If we do not, many more will die or will be injured by handgun ammunition. We must act now, Mr. President, before tens of thousands more lose their lives.●

TENSIONS IN EGYPT

● Mr. SIMON. Mr. President, last July 23, at my request, an article by Dr. Mamoum Fandy from the magazine "Middle East Policy" appeared in the RECORD. I was interested by Dr. Fandy's argument that tensions within Egyptian society which contribute to terrorism derive partly from religious fundamentalism and are also caused by the existence of an economic, social, and geographic underclass. As I noted, the underclass problem is something we have in the United States, apparently in less magnified form, although we ought to do better in dealing with it.

The Egyptian Government does not share Dr. Fandy's conclusions and Ambassador El Sayed wrote to me last fall, taking strong issue with the article in a response emphasizing that the full weight of the law must be brought to bear against terrorists, while affirming the Egyptian Government's sen-

sitivity to human rights. I would note that, as in any pluralistic system, the process is not easy and the verdict will be for the Egyptian people to render. I hope that President Mubarak, who has contributed so much and so courageously to the Middle East peace process, will see the realization of his vision of a tolerant, moderate democracy which is not undermined by terrorism.

I ask to insert Ambassador El Sayed's letter into the RECORD at this point.

The letter follows:

THE AMBASSADOR OF EGYPT,
Washington, DC, October 20, 1993.

Hon. PAUL SIMON,
Senate Office Building, Washington, DC.

DEAR SENATOR SIMON: I wish to express to you my deep appreciation for your constant advocacy of African causes. I am also gratified by the interest you have always shown to matters related to Egypt, and your desire to be acquainted with the developments in my country as it continues to follow the path of more democracy and more liberalization of the economy leading towards fully responding to the aspirations of our people.

Since part of what is published about Egypt does not respond to the requirements of objectivity and accuracy, and as I know your interest and your desire to judge matters on their merits, I wish to put before you the following facts:

1. The Egyptian society has always been a society characterized by moderation and openness dictated by our geographical reality and historical background which made Egypt not only the cradle of civilization, but also the meeting ground of later civilizations. Extremism is alien to the genius of the Egyptian people.

2. In modern times, various attempts to impose by force, under the usurped banner of religion, theocratic regimes have failed because of their rejection by the people. At no time have these attempts—despite the many victims, which they caused—constituted a danger to the solid fabric of our society.

3. In moments of great change, these forces of darkness try to take advantage of the difficulties of any transition, to inject their false representation of Islam, and pursue their real objective which is to seize power by force to satisfy ambitions and greed.

4. We realize that the best answer is to continue on our path towards reform, thus allowing the people to reap the fruits of their sacrifices. But, at the same time, no Government can fail to firmly oppose with all the legal means at its disposal, those who are using lethal tactics against the authorities, against innocent civilians, and against the very life and livelihood of the population. When a war is waged against society, no appeasement is allowed, and the whole weight of the law must be brought to bear upon the culprits. In doing so the Egyptian Government is very sensitive to ensure, at the same time as the rights of the accused, the human rights of the majority of the people who want to live in peace and security and are the victims of the terrorists.

5. Part of the campaign launched by those terrorists is to use, in addition to lethal weapons and bombs which hit blindly and indiscriminately the weapons of innuendo, false accusations, and smear. Accusations of corruption are part of this war. I do not pretend that Egypt, or any other country for that matter, is inhabited by angels, nor do I want to compare corruption—real or alleged—in Egypt with the same in other countries, I just want to assure you that the policy of the Government is to pursue any case of corruption and punish the guilty whomever they be.

At the same time, what has been achieved under President Mubarak in rebuilding the whole infrastructure, in reforming the economy, in erecting a democratic regime, is a living testimony to the falsehood of the picture of doom which some analysts unfortunately tend to draw in good or bad faith. We are determined to continue on the same course, with the support of our friends, and in particular the United States, until we achieve our aim which is to ensure to free citizens in a free country a high degree of prosperity on the threshold of the Twenty-First Century.

Sincerely, and with best wishes

AHMED MAHER EL SAYED.●

COST PERFORMANCE INDEX

● Mr. D'AMATO. Mr. President, Members who went into cardiac arrest over $500 million B-2's better start popping nitroglycerin: C-17's are running at $497.7 million a copy in fiscal year 1995. How, you ask, can a transport aircraft cost nearly as much as the most sophisticated strategic bomber ever conceived? Therein lies a tale.

One major reason, maybe the key reason, the C-17 costs so much is turmoil on the production line. The best overall measure of line efficiency is the cost performance index [CPI], which compares work accomplished against the actual dollars spent for that work. Typically, CPI improved over time as workers on a production line climb the learning curve. In the case of the C-17, however, the CPI for the full scale engineering development [FSED] lot and lots I, II, and III is actually declining over time. Only lot IV, which showed steady decline in the first 6 months, experienced a 1-percent increase in return on each dollar invested in the last month in which figures are available.

The Air Force has attributed much of this miserable performance to labor inefficiencies caused by bumping, the practice of senior employees displacing junior workers during labor downturns. In the case of the Douglas plant in Long Beach, idle commercial airline workers have steadily migrated to the C-17 program. The resulting disruption up and down the line has played havoc with productivity.

Now here is the scary part. The Saudis have just decided to make a large purchase of United States commercial airliners, including MD-11's. It is likely, in order to meet delivery schedules, that former MD-11 employees now working on the C-17 will be moved back to the reenergized MD-11 line—in essence, bumping in reverse. The resultant gaps on the C-17 shop floor will have to be filled by new hires, and, once again, line efficiency will suffer. Something to consider as we contemplate the purchase of six additional C-17's this year.

I ask that the latest CPI chart be printed in the RECORD at the conclusion of my remarks.

The chart follows:

FSED CPI CUM

Month	1985	1986	1987	1988	1989	1990	1991	1992	1993
Jan	1.03	1.03	1.01	0.97	0.88	0.79	0.69	0.69	0.69
Feb	1.03	1.03	1.01	.96	.88	.79	.69	.69	.68
Mar	1.02	1.03	1.00	.95	.87	.78	.70	.69	.68
Apr	1.03	1.03	1.00	.93	.86	.76	.69	.69	.68
May	1.03	1.02	.99	.93	.85	.74	.69	.69	.68
Jun	1.02	1.01	.98	.93	.85	.71	.69	.65	.68
Jul	1.03	1.00	.98	.92	.84	.71	.69	.69	.68
Aug	1.03	1.01	.98	.91	.84	.68	.69	.69	.68
Sep	1.03	1.01	.97	.91	.83	.67	.69	.69	.68
Oct	1.03	1.01	.98	.90	.82	.67	.69	.69	.68
Nov	1.03	1.01	.97	.89	.81	.69	.69	.69	.68
Dec	1.03	1.02	.98	.89	.80	.69	.69	.69	.68

LOT I CPI CUM

Month	1988	1989	1990	1991	1992	1993
Jan	.....	0.89	0.91	0.69	0.66	0.66
Feb	.....	.92	.92	.69	.66	.66
Mar	.....	.87	.94	.69	.66	.66
Apr	.....	.87	.88	.67	.66	.66
May	.....	.89	.85	.66	.66	.65
Jun	0.79	.88	.83	.67	.66	.65
Jul	.81	.89	.84	.67	.66	.65
Aug	.82	.92	.8	.67	.66	.65
Sep	.83	.93	.76	.67	.66	.64
Oct	.87	1.02	.74	.66	.66	.64
Nov	.87	.99	.66	.66	.66	.64
Dec	.87	.96	.67	.66	.66	.64

LOT II CPI CUM

Month	1989	1990	1991	1992	1993
Jan	.....	0.98	0.70	0.70	0.63
Feb	.....	.91	.73	.68	.64
Mar	.....	.67	.73	.69	.64
Apr	.....	.88	.74	.67	.64
May	.....	1.07	.75	.67	.63
Jun	.....	1.07	.73	.67	.63
Jul	.....	1.21	.73	.66	.63
Aug	.....	1.21	.73	.66	.63
Sep	.....	1.04	.72	.65	.63
Oct	.....	1.05	.70	.64	.62
Nov	0.97	.64	.70	.64	.62
Dec	.97	.69	.70	.64	.62

LOT III CPI CUM

Month	1991	1992	1993
Jan	.....	0.97	0.92
Feb	.....	.95	.92
Mar	.....	.96	.91
Apr	.....	.95	.90
May	.....	.95	.90
Jun	.....	.95	.89
Jul	.....	.95	.88
Aug	.....	.95	.86
Sep	0.92	.95	.86
Oct	.94	.95	.85
Nov	.95	.94	.85
Dec	.94	.93	.85

LOT IV CPI CUM

Month	*1993*
January	...
February	...
March	...
April	...
May	...
June	0.97
July	.97
August	.96
September	.95
October	.94
November	.93
December	.94●

THE BISHKEK PROTOCOL ON NAGORNO-KARABAKH

● Mr. DECONCINI. Mr. President, the peace process in Nagorno-Karabakh has taken a new turn. At a meeting of the Parliamentary Assembly of the Commonwealth of Independent States [CIS] in Bishkek, Kyrgyzstan, representatives of Armenia, Azerbaijan, Nagorno-

Karabakh, Russia, and Kyrgyzstan on May 8 signed a protocol that may finally signal a winding down of the Nagorno-Karabakh conflict.

The provisions of the agreement include a cease-fire, followed by the withdrawal of Armenian forces from all areas captured, except for Lachin and Shusha, two key cities whose status will be negotiated subsequently. During this second phase, prisoners of war will be exchanged and refugees are supposed to be able to return to their homes. Phase three will inaugurate negotiations about the future status of Nagorno-Karabakh.

While Armenia and Nagorno-Karabakh agreed early on to sign the accord, Azerbaijan's representative insisted on several changes in the wording. For example, Azerbaijan has been resisting Russian pressure to station Russian peacekeeping forces in the conflict zone, and demanded that the observers who will be monitoring compliance with the agreement be international in composition.

Despite these modifications, Azerbaijan remains ambivalent about the accord. Opposition groups have criticized the government for signing on to a document that features the signature of a representative of Nagorno-Karabakh. They argue that Azerbaijan has thus recognized Nagorno-Karabakh as a party to the conflict, which runs counter to the official Azerbaijani line to date that the war is interstate in nature, that is, between Azerbaijan and Armenia. There is also continuing opposition to the stationing of Russian troops on Azerbaijani territory. Nevertheless, the Defense Ministers of Armenia, Azerbaijan, and the head of Nagorno-Karabakh's Armed Forces signed a cease-fire agreement in Moscow on May 16. The disengagement of the warring sides is to be followed by the stationing of observers and peacekeepers, most of whom are Russian.

From the U.S. perspective, a cease-fire in a conflict that has claimed over 20,000 lives is long overdue and very welcome. It is noteworthy, however, that the Bishkek agreement differs little from scenarios under discussion for some time in the CSCE's Minsk Group, but was reached through negotiations in the Russian-dominated forum of the CIS Parliamentary Assembly. Russia is itself a member of the Minsk Group, which the CSCE authorized to arbitrate the conflict, but has not been particularly successful to date. Vladimir Shumeiko, Chairman of the Federation Council, the upper chamber of Russia's parliament, who chaired the Bishkek conference, reportedly stated that problems in the CIS should be resolved by the CIS. This raises questions about the sincerity of Moscow's dedication to CSCE mediation of the Nagorno-Karabakh conflict and other disputes on the territory of the former Soviet Union.

Many cease-fires have been signed in the 6 years of the Nagorno-Karabakh conflict. None has lasted, and it remains to be seen whether this one will be any different. In fact, there have already been reports of cease-fire violations. Azerbaijan's Parliament must also ratify the accord, which seems likely but is not certain.

Mr. President, I fervently hope this cease-fire will hold. The Nagorno-Karabakh conflict must go from the battlefield to the negotiating table, refugees must be allowed to return home, and peace must be given a chance.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider executive calendar No. 21, two protocols amending the OAS charter; that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; that no amendments, conditions, reservations, understandings, declarations or provisos be in order; that any statement be inserted in the CONGRESSIONAL RECORD as if read; that the motion to reconsider be laid upon the table; and that the President be notified of the Senate's action.

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

The treaties will be considered to have passed through their various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The resolution of ratification was read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the "Protocol of Washington" Adopted on December 14, 1992, by the Sixteenth Special Session of the General Assembly of the Organization of American States (OAS) and Signed by the United States on January 23, 1993, and the "Protocol of Managua" Adopted by the Nineteenth Special Session of the OAS General Assembly on June 10, 1993, and Signed That Day by the United States.

Mr. FORD. Mr. President, I ask for a division vote.

The PRESIDING OFFICER. A division has been requested.

Senators in favor of the resolution of ratification of the treaty, please rise. [After a pause.] Those opposed will rise and stand until counted.

With two-thirds of those present, having voted in the affirmative, the resolution of ratification is agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following nominations: Calendar Nos. 896, 897, 898; I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motion 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:

Jeffrey K. Harris, of New Jersey, to be an Assistant Secretary of the Air Force.

Manuel Trinidad Pacheco, of Arizona, to be Member of the National Security Education Board for a term of four years.

Eamon M. Kelly, of Louisiana, to be a Member of the National Security Education Board for a term of four years.

STATEMENT OF NOMINATION OF MANUEL TRINIDAD PACHECO

Mr. MCCAIN. Mr. President, I urge the Senate to confirm the nomination of Dr. Manuel Trinidad Pacheco to the National Security Education Board. Dr. Pacheco is a distinguished academic and educator and was appointed president of the University of Arizona in 1991. During his tenure, the University of Arizona's reputation for excellence has been enhanced and the University's commitment to language development has been strengthened. His leadership of the university has greatly benefited the student body as well as the State of Arizona, and I believe that he will make a major contribution to the work of the National Security Education Board.

Starting his career as a French and Spanish teacher in New Mexico high schools, Dr. Pacheco went on to become a lecturer at New Mexico Western University, assistant professor at Florida State University, and associate professor at the University of Colorado where he also served as coordinator of Mexican-American studies. Dr. Pacheco holds a Ph.D. in foreign language education from Ohio State University.

Before becoming president of the University of Arizona, Dr. Pacheco held several positions in university administration and educational planning. From 1972 to 1977, he was dean of the university and professor of education at Texas A & I University—now Laredo State University. Subsequently, he chaired the multicultural education department at San Diego State University, and then returned to Texas A & I as executive director of the Bilingual Education Center. In 1982, he was appointed associate dean of the College of

Education at the University of El Paso where he later become executive director for planning.

In 1984, after serving as the chief policy aide to the Governor of New Mexico, Dr. Pacheco was named president of Laredo State University. He became president of the University of Houston-Downtown in 1988.

Throughout his professional life, Dr. Pacheco has devoted himself to linguistic and bilingual education. He has published extensively in this area.

Dr. Pacheco is extremely well-qualified to serve on the National Education Security Board. His expertise, experience, and devotion to language education and public service will be an asset to the Board, and his proven leadership in this important area will directly contribute to the success of the Board's work. I strongly support Dr. Pacheco's nomination and urge my colleagues in the Senate to confirm him.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

APPOINTMENT BY PRESIDENT PRO TEMPORE OF ESCORT COMMITTEE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate pro tempore be authorized to appoint a committee of Senators to join with a like committee on the part of the House of Representatives to escort the Prime Minister of the Republic of India to the House Chamber for the joint meeting to be held at 11 a.m. tomorrow, Wednesday, May 18, 1994.

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

NUTRITION LABELING AND EDUCATION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Labor and Human Resources Committee be discharged from further consideration of S. 2087, a bill to extend the time period for compliance with the Nutrition Labeling Education Act of 1990; that the Senate proceed to its immediate consideration; that the bill be amended by a substitute amendment, which I send to the desk on behalf of Senators BUMPERS and HATCH; and that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The amendment (No. 1719) is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

Before August 8, 1994, sections 403(q) and 403 (r)(2) of the Federal Food, Drug, and Cosmetic Act, and the provision of section 408(i) of such Act added by section 7(2) of the Nutrition Labeling and Education Act of 1990, shall not apply with respect to a food product which is contained in a package for which the label was printed before May 8, 1994 (or before August 8, 1994, in the case of a juice or milk food product if the person responsible for the labeling of such food product exercised due diligence in obtaining before such date labels which are in compliance with such sections 403(q) and 403(r)(2) and such provision of section 408(i)), if, before June 15, 1994, the person who introduces or delivers for introduction such food product into interstate commerce submits to the Secretary of Health and Human Services a certification that such person will comply with this section and will comply with such sections 403(q) and 403(r)(2) and such provision of section 408(i) after August 8, 1994.

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

So the bill (S. 2087), as amended, was deemed read the third time and passed.

(The text of S. 2087 will appear in a future edition of the RECORD.)

VIETNAM HUMAN RIGHTS DAY

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a joint resolution (S.J. Res. 168) designating May 11, 1994, as "Vietnam Human Rights Day."

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 168) entitled "Joint Resolution designating May 11, 1994, as 'Vietnam Human Rights Day'", do pass with the following amendments:

Page 1, in the third clause of the preamble, strike out ", Dr. Nguyen Dan Que,".

Page 2, in the last clause of the preamble, strike out "including Dr. Nguyen Dan Que,".

Mr. FORD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

MEASURE READ FOR THE FIRST TIME

Mr. FORD. Mr. President, I understand that S. 2122, relating to the financing of long-term care, introduced earlier today by Senator COHEN, is at the desk.

The PRESIDING OFFICER. The bill is at the desk and will be read for the first time.

The assistant legislative clerk read as follows.

A bill (S. 2122) to improve the public and private financing of long-term care and to strengthen a public safety net for elderly and nonelderly disabled individuals who lack adequate protection against long-term care expenses, and for other purposes.

Mr. FORD. Mr. President, I now ask for its second reading.

Mr. CHAFEE. Mr. President, on behalf of others, I object.

The PRESIDING OFFICER. Objection is heard. The bill will be read for a second time the next legislative day.

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

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

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, May 18; that, following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that, immediately thereafter, the Senate resume consideration of S. 2019, the safe drinking water bill; further, that at 10:40 a.m., the Senate assemble as a body and proceed to the House of Representatives to meet with the House in a joint meeting to hear the address of the Prime Minister of India; and, that the Senate then recess until 12:15 p.m.

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

RECESS UNTIL TOMORROW AT 9 A.M.

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

Mr. President, if there is no further business to come before the Senate today, and no Senator wishes to speak, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:28 p.m., recessed until tomorrow, Wednesday, May 18, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate May 17, 1994:

SUPREME COURT OF THE UNITED STATES

STEPHEN G. BREYER, OF MASSACHUSETTS, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE HARRY A. BLACKMUN.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

MICHAEL NACHT, OF MARYLAND, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY, VICE LINTON F. BROOKS, RESIGNED.

AMY SANDS, OF CALIFORNIA, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY, VICE MANFRED EIMER.

LAWRENCE SCHEINMAN, OF NEW YORK, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY, VICE BRADLEY GORDON, RESIGNED.

FEDERAL LABOR RELATIONS AUTHORITY

PHYLLIS NICHAMOFF SEGAL, OF MASSACHUSETTS, TO BE A MEMBER OF THE FEDERAL LABOR RELATIONS AU-

THORITY FOR A TERM OF 5 YEARS EXPIRING JULY 1, 1999, VICE JEAN MCKEE, TERM EXPIRING.

IN THE COAST GUARD

PURSUANT TO THE PROVISIONS OF 14 U.S.C. 729, THE FOLLOWING-NAMED COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF CAPTAIN.

To be captain

ROGER K. WIEBUSCH
ANDREW J. MCDONOUGH
MICHAEL J. PERPER
MARY P. O'DONNELL
DAVID V. EDLING
GREGORY S. CHAPMAN
ROBERT K. ANDERSON
KENNETH M. NORRIS
SETH J. HUDAK
ROBERT W. MONTFORT

THE FOLLOWING INDIVIDUAL FOR APPOINTMENT AS A PERMANENT REGULAR COMMISSIONED OFFICER IN THE U.S. COAST GUARD IN THE GRADE OF COMMANDER.

To be commander

KAY L. HICKMAN

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601(A) AND 3034:

To be general

LT. GEN. JOHN H. TILELLI, JR. [redacted]

IN THE AIR FORCE

THE FOLLOWING OFFICERS 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 TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

JERRY J. FOSTER [redacted]

To be lieutenant colonel

BRADLEY A. YODER, [redacted]

To be major

DAVID P. ARMSTRONG [redacted]
MIGUEL A. RAMIREZCOLON [redacted]
PETER T. WALSH [redacted]

DENTAL CORPS

To be lieutenant colonel

BARRETT W. BADER [redacted]
JAMES C. BROOME, JR. [redacted]
ROBERT M. GARRETT [redacted]
DEAN A. PFIRRMAN [redacted]

To be major

CORYDON L. DOERR [redacted]
JOHN R. EMBRY [redacted]
DANIEL C. HAMAN [redacted]
LYNN C. HARRIS [redacted]
SCOTT A. MAZANEC [redacted]
ALAN L. PEET [redacted]
JOE D. SPARKS [redacted]

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 593, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

DONALD B. BEAMON [redacted]
JACK W. CRAMER [redacted]
KARL E. LEE [redacted]

THE FOLLOWING AIR FORCE OFFICER FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, IN ACCORDANCE WITH TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 1552, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be lieutenant colonel

SANDRA D. GATLIN [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PROMOTION TO THE PERMANENT GRADE OF COLONEL UNDER SECTION 5912 OF TITLE 10, UNITED STATES CODE:

JOHN B. ATKINSON, [redacted]
COLEMAN L. BENNETT, [redacted]
FERGUS P. BRIGGGS, [redacted]
MARK A. BULTMEMEIER, [redacted]
MARK F. CANCAIN, [redacted]
DAVID L. CARMICHAEL, [redacted]
LAWRENCE E. CARR III, [redacted]
JERE J. CARROLL, [redacted]
WILLIAM J. CAVENAUGH, [redacted]
LARRY L. CHAPMAN, [redacted]
JAMES P. COLLERY, [redacted]
MARTIN J. CONRAD, [redacted]
ROBERT S. DONAGHUE, [redacted]
JOHN A. DURANT, [redacted]
DANIEL C. FARINA, [redacted]
DAVID L. FERGUSON, [redacted]
JAMES D. FUGIT, [redacted]
DARRELL F. HALSE, [redacted]
JOHN A. HARP, [redacted]
DAVID P. HEIDENTHAL, [redacted]
KENNETH F. HERRINGTON III, [redacted]
COLLIS A. HOLLOWAY, [redacted]
FRANCIS A. JOHNSON III, [redacted]
JERRY K. JOHNSON, [redacted]
GEORGE C. LAKE, [redacted]
WESLEY F. MAY III, [redacted]
JOHN M. MCAFEE, [redacted]
ROBERT F. MCCULLOUGH, [redacted]
STEVEN C. MORGAN, [redacted]
JERROLD B. PETERSON, [redacted]
DAVID R. REEVES, [redacted]
STEPHEN M. RICH, [redacted]
SCOTT ROBERTSON, [redacted]
PATRICIA M. ROGERS, [redacted]
ROGER L. ROUSSEAU, [redacted]
ROBERT B. ST. CLAIR, [redacted]
JOHN C. SWANSON, [redacted]
JAMES B. TALLEY, JR., [redacted]
DAVID L. WARE, [redacted]
CORNELL A. WILSON, JR. [redacted]
JOHN F. WIRTZ, JR. [redacted]

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (LH) JAMES PAUL SCHEAR, [redacted] U.S. NAVAL RESERVE
REAR ADM. (LH) JOHN EARL TILL, [redacted] U.S. NAVAL RESERVE
REAR ADM. (LH) GEORGE DENNIS VAUGHAN, [redacted] U.S. NAVAL RESERVE

UNRESTRICTED LINE OFFICER (TRAINING AND ADMINISTRATION OF RESERVE)

To be rear admiral

REAR ADM. (LH) FRANCIS WILLIAM HARNESS, [redacted] U.S. NAVAL RESERVE

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral

REAR ADM. (LH) BRUCE ALLEN BLACK, [redacted] U.S. NAVAL RESERVE

THE FOLLOWING-NAMED AIR FORCE CADETS TO BE PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 541:

DALE C. HOOVER
JAMES D. MCCARTHY
JOB W. PRICE
DAVID C. SASSER

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

RAMON A. MALDONADO
ERIK B. MILCH
REGINALD RICHARDSON
ERIC B. SWENSON

THE FOLLOWING-NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

DAVID K. ANDERSON
ANTHONY A. BARGER
CHRISTOPHER J. BUDDE
WILLIAM D. CARROLL
CHARLES P. CONE
JERRY D. FOSTER, JR.
BRIAN E. JACKSON

THE FOLLOWING-NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

DENNIS A. DAROCZY
AMY E. DERRICK
MARC P. GAGE
MICHAEL T. LONG
WILLIAM T. MILLS
JAMES P. NUNN
JAMES P. REYNOLD
JED L. VAN LOAN
KENNETH T. WILSON

THE FOLLOWING-NAMED MEDICAL COLLEGE GRADUATE TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JACK H. KLAUSEN

THE FOLLOWING-NAMED FORMER U.S. NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

PHILIP J. SHAVER

THE FOLLOWING-NAMED FORMER U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

ROBERT D. PUDER

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

SCOTT M. BALDERSTON

CONFIRMATIONS

Executive nominations confirmed by the Senate May 17, 1994:

DEPARTMENT OF DEFENSE

JEFFREY K. HARRIS, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE.

MANUEL TRINIDAD PACHECO, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS.

EAMON M. KELLY, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF 4 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.