SENATE—*Thursday, August 18, 1994*

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

The PRESIDENT pro tempore. The prayer to the great God of the Universe, Creator of man in His own image, will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

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

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest.—Matthew 11:28.

Thank You, God, for this beautiful promise and invitation from our Lord.

Almighty God, Thou knowest better than we the weariness, the frustration, the pressure and tension under which Your servants labor. Thou knowest their minds and hearts, their families, their canceled plans, circumstances which are difficult to bear.

In a way that only God can do it, grant to Your faithful servants a special dispensation of love, grace, mercy, and peace. Encourage them, strengthen them, grant them the "peace that passeth understanding." Demonstrate the reality of Your presence in this place.

In Jesus' name who is Love incarnate. Amen.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

Also under the previous order, the Senator from Utah [Mr. HATCH] is to be recognized for up to 10 minutes.

The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank the Chair.

CRIME BILL CONFERENCE REPORT

Mr. HATCH. Mr. President, the more people learn about this crime bill, the more opposition to it grows. Now it seems the President's own prosecutors have serious troubles with parts of this crime bill. The President's frontline Federal prosecutors have announced that they are "very much opposed" to the crime bill's mandatory minimum reform provision. The National Association of Assistant U.S. Attorneys, which represents nearly 4,000 Federal prosecutors, has written a letter to me opposing the crime bill's mandatory minimum reform.

As I have stated on a number of occasions, this provision of the crime bill will decrease penalties for many drug dealers, conspirators, and drug traffickers. It will also result in the early release of as many as 16,000 Federal drug dealers, and it will clog our courts with frivolous litigation. Our Nation's Federal prosecutors know that such a provision is not tough and it surely is not smart.

Republicans support the passage of a crime bill which is both tough and smart. And I might add, a number of Democrats do as well. Unfortunately, the crime bill conference report is neither. It is larded with pork barrel spending. It provides too little money for prisons. It drops several tough-on-crime provisions which were part of the Senate bill. It permits the early release of as many as 16,000 Federal prisoners. It fails to prevent the administration's planned implementation of a racial quota which will eliminate the Federal death penalty, and it increases the deficit by at least $13 billion.

Notwithstanding our repeated calls for bipartisanship, some Members on the other side of the aisle have questioned our motives and the sincerity of our objections. Frankly, I was particularly troubled by some recent remarks on the floor of this body which called into question our distinguished Republican leader's candor in his call for bipartisanship.

Yesterday, Senator DOLE took the floor and discussed some areas for possible compromise. Rather than responding in a constructive manner, his proposed changes were assailed by the other side of the aisle.

For example, he suggested that the administration should agree to drop the get-out-of-jail-free mandatory minimum provision that the prosecutors have just said should be changed. Republicans have expressed strong opposition to this provision because it is simply too broad and it will permit the early release of as many as 10,000 to 16,000 Federal prisoners—criminals.

Yesterday, one of our colleagues from the other side of the aisle claimed that only 400 offenders would be released as a result of this provision. Yet, the figure he cited was the Clinton administration's Bureau of Prisons estimate. The fact is the neutral Administrative Office of the U.S. Courts has concluded that as many as 10,000 Federal prisoners will be eligible for early release. Furthermore, respected Princeton University professor, John DiLuilio, a self-professed card-carrying Democrat, has estimated that as many as 16,000 prisoners will qualify for early release under this provision.

I ask unanimous consent that relative documents supporting my position be inserted in the RECORD.

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

JUDICIAL IMPACT STATEMENT—VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

(Prepared by the Judicial Impact Office, Administrative Office of the U.S. Courts)

APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES (TITLE II, SECTIONS 201 AND 203)

Section 201 would permit Federal judges to impose sentences below mandatory minimum levels under specific conditions. More encompassing than the version in the Senate crime bill, this provision would apply to the drug offender who: (1) does not have more than 1 "criminal history point" under the United States Sentencing Commission Guidelines Manual; (2) did not use or threaten violence or possess a dangerous weapon during the offense; (3) was not an organizer, leader, manager, or supervisor of others in the offense; and (4) discloses all information known about the offense. This provision would not apply if the offense caused death or serious injury to another person.

Based on data from the United States Sentencing Commission's February 22, 1994 report on the Senate crime bill, this provision could affect about 150 to 900 defendants annually. This should not have a significant impact on the Judiciary's resource needs. It could however, impose costs on the Federal probation system earlier than planned since prisoners could be released from prison and placed under supervised release earlier than they would otherwise.

Section 203 would allow the retroactive application of proposed Section 201 to an individual already sentenced and serving prison time, provided that the individual has demonstrated good behavior while in prison. According to preliminary estimates developed by the Federal Bureau of Prisons, somewhere between 5,000 and 10,000 Federal prisoners could meet the eligibility requirements of Section 201. A sentence reduction hearing would likely be required to reduce a prisoner's sentence, each costing the Judiciary about $2,500. If 5,000 to 10,000 hearings were conducted, the cost to the Judiciary could be between $12.5 million to $25 million, which would likely be incurred within the first two to three years after enactment of the provision.

This provision may create other adverse resource consequences for the Judiciary. First, it is possible that some court time could be unproductively spent hearing frivolous motions for reduced sentences. Second, similar to what could occur under proposed

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

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Section 201, this provision could result in an influx of prisoners released early from prison and placed under supervised release, which could impose substantial costs on the Federal probation system earlier than anticipated.

EXCERPT FROM SENATE AMENDMENT TO CRIME BILL

SEC. 2404. FLEXIBILITY IN APPLICATION OF MANDATORY MINIMUM SENTENCE PROVISIONS IN CERTAIN CIRCUMSTANCES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(f) MANDATORY MINIMUM SENTENCE PROVISIONS.—

"(1) SENTENCING UNDER THIS SECTION.—In the case of an offense described in paragraph (2), the court shall, notwithstanding the requirement of a mandatory minimum sentence in that section, impose a sentence in accordance with this section and the sentencing guidelines and any pertinent policy statement issued by the United States Sentencing Commission.

"(2) OFFENSES.—An offense is described in this paragraph if—

"(A) the defendant is subject to a mandatory minimum term of imprisonment under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960);

"(B) the defendant does not have—

"(i) more than 0 criminal history point under the sentencing guidelines; or

"(ii) any prior conviction, foreign or domestic, for a crime of violence against the person or drug trafficking offense that resulted in a sentence of imprisonment (or an adjudication as a juvenile delinquent for an act that, if committed by an adult, would constitute a crime of violence against the person or drug trafficking offense;

"(C) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person—

"(i) as a result of the act of any person during the course of the offense; or

"(ii) as a result of the use by any person of a controlled substance that was involved in the offense;

"(D) the defendant did not carry or otherwise have possession of a firearm (as defined in section 921) or other dangerous weapon during the course of the offense and did not direct another person who possessed a firearm to do so and the defendant had no knowledge of any other conspirator involved possessing a firearm;

"(E) the defendant was not an organizer, leader, manager, or supervisor of others (as defined or determined under the sentencing guidelines) in the offense; and

"(F) the defendant was nonviolent in that the defendant did not use, attempt to use, or make a credible threat to use physical force against the person of another during the course of the offense.

"(G) the defendant did not own the drugs, finance any part of the offense or sell the drugs.".

(b) HARMONIZATION.—

(1) IN GENERAL.—The United States Sentencing Commission—

(A) may make such amendments as it deems necessary and appropriate to harmonize the sentencing guidelines and policy statements with section 3553(f) of title 18, United States Code, as added by subsection (a), and promulgate policy statements to assist the courts in interpreting that provision; and

(B) shall amend the sentencing guidelines, if necessary, to assign to an offense under section 401 or 402 of the Controlled Substances Act (21 U.S.C. 841 and 844) or section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) to which a mandatory minimum term of imprisonment applies a guideline level that will result in the imposition of a term of imprisonment at least equal to the mandatory term of imprisonment that is currently applicable unless a downward adjustment is authorized under section 3553(f) of title 18, United States Code, as added by subsection (a).

(2) If the Commission determines that an expedited procedure is necessary in order for amendments made pursuant to paragraph (1) to become effective on the effective date specified in subsection (c), the Commission may promulgate such amendments as emergency amendments under the procedures set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182; 101 Stat. 1271), as though the authority under that section had not expired.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and any amendments to the sentencing guidelines made by the United States Sentencing Commission pursuant to subsection (b) shall apply with respect to sentences imposed for offenses committed on or after the date that is 60 days after the date of enactment of this Act. Notwithstanding any other provision of law, any defendant who has been sentenced pursuant to section 3553(f) who is subsequently convicted of a violation of the Controlled Substances Act or any crime of violence for which imposition of a mandatory minimum term of imprisonment is required, he or she shall be sentenced to an additional 5 years imprisonment.

[From the Wall Street Journal, Aug. 11, 1994]

THIS BILL IS A CRIME

(By Jay Apperson)

The so-called anti-crime bill crafted by House-Senate conferees appears headed for a crucial vote in the House this week, possibly as early as today. The bill is a bad bill and should be defeated. While I do not speak for the Justice Department, I do speak as a veteran front-line prosecutor. Based on my experience, the crime bill does little to strengthen law enforcement and wastes hundreds of millions of dollars on soft-headed gimmicks that don't work.

More important, the bill is the drug dealer's best friend. It guts one of the most effective law enforcement tools to induce cooperation against high-level drug traffickers—"mandatory minimums"—and, incredibly, authorizes the wholesale release from prison of potentially thousands of convicted drug traffickers, putting them back on the street.

The legislation is the result of intense and sustained lobbying by the criminal defense bar and other critics of tough mandatory-minimum drug sentences enacted in the 1980s. These critics have painted a picture of federal prosecutors who round up helpless drug addicts and throw then in jail for 10 years with no change for parole. The reality is far different. Mandatory minimums apply (with a single exception) to drug dealers, not users. Simple possession by a user is only a misdemeanor which carries a sentence of no more than one year.

What the critics don't tell you is that mandatory minimums for those assisting in drug distribution are part of a comprehensive scheme which allows the government to move to reduce a defendant's sentence below the minimum term if he provides "substantial assistance" in the prosecution of others. In other words, if low-level dealers, drug couriers or "mules," arrested on federal drug offenses, cooperate with prosecutors, identify their sources and higher-ups, testify against them at trial, and help put them out of business, then those low-level defendants can have their own sentence reduced. It is a common-sense "carrot and stick" approach which represents perhaps the single most effective law enforcement tool in convicting high-level drug suppliers and traffickers.

Congress should think long and hard before returning us to the old days when narcolords could successfully insulate themselves by having others handle the drugs. Before mandatory minimums, underlings served very little jail time for their scutwork. Often paid for their prison time by their bosses, the low-level guys didn't finger increasingly violent higher-ups. Their short sentences were simply the cost of doing business.

However, faced with the certainty of a 10-year mandatory sentence with no parole, it's amazing how defendants' loyalty or fear is suddenly put into perspective. They very quickly realize they will be giving up a huge chunk of their lives for someone else. And they usually decide to cooperate with prosecutors.

Federal prosecutors have utilized mandatory minimums to successfully convict increasingly sophisticated high-level traffickers and racketeers—people who would otherwise still be in business. Responsible defense attorneys have zealously represented their clients by getting them to cooperate with the United States to earn reduced time. It is a system that works—both for society, which is rid of some high-level dealers, and for low-level defendants, who earn a reduced sentence.

Yet you'd never understand how this system works from reading press accounts, which have been shaped by critics of mandatory minimums. A good example is a Feb. 20 Washington Post article, which portrayed a young black man named Derrick Curry, who had been convicted on federal drug trafficking charges. The Post reporter lamented the "incomprehensibly severe" 20-year sentence for this "small-time dealer." The story noted, almost in passing, that Curry steadfastly refused to cooperate by "ratting on his friends." For those who think that's noble, remember Jesse Jackson's admonition to young blacks: "It's like seeing your apartment building in flames and not telling anybody about it because * * * the guys who set the fire are black. They think they're being disloyal to the race if they tell it. No: They will burn the race up unless they tell it."

Unfortunately, the crime bill removes the incentive to "tell it" by gutting mandatory minimums for a large number of low level defendants. These "low-level" defendants—a term defined by politicians not prosecutors—would be eligible to escape the mandatory minimum sentences without ever providing meaningful cooperation to prosecutors. The escape provision applies regardless of the amount of drugs involved. A person who distributes hundreds of kilograms of cocaine or heroin can qualify. It applies even to people who have engaged in repeated and ongoing trafficking, not just small fry who get caught for a single lapse in judgment.

The bill actually allows the escape hatch to apply retroactively, allowing release of those already convicted and sentenced. What's more, these convicted criminals may qualify for release even if they continue to protect higher-up drug traffickers. Convicted

criminals may be released simply by having admitted they did it even after they have been convicted by a jury. They can also be released by telling the government what happened years after their arrest and conviction, when that information is useless. There is no requirement that they testify against anyone.

Passage of this legislation will reward the dangerously false nobility of the Derrick Currys of the world. And the punks whom they have protected will be waiting to put them back in the drug business when they get out.

If Congress is serious about fighting crime, it will defeat this bill. If President Clinton is serious, he will veto it. It's a bad bill.

EXCERPT FROM HOUSE AMENDMENT TO CRIME BILL

TITLE II—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 201. LIMITATION ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following:

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act or section 1010 or 1013 of the Controlled Substances Import and Export Act, the court shall impose a sentence pursuant to guidelines established by the United States Sentencing Commission, without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point under the United States Sentencing Commission Guidelines Manual;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others (as determined under the United States Sentencing Commission Guidelines Manual) in the offense; and

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement.".

(b) SENTENCING COMMISSION AUTHORITY.—

"(1) IN GENERAL.—The United States Sentencing Commission (hereinafter in this section referred to as the "Commission") may—

(A) make such amendments as the Commission deems necessary to harmonize the sentencing guidelines and policy statements with this section and the amendment made by this section; and

(B) promulgate policy statements to assist in the application of this section and that amendment.

(2) PROCEDURES.—If the Commission determines it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of the enactment of this Act.

SEC. 202. DIRECTION TO SENTENCING COMMISSION.

The United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines with respect to cases where statutory minimum sentences would apply but for section 3553(f) of title 18, United States Code, to carry out the purposes of such section, so that the lowest sentence in the guideline range is not less than 2 years in those cases where a 5-year minimum would otherwise apply.

SEC. 203. SPECIAL RULE.

For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner the court determines has demonstrated good behavior while in prison, the changes in sentencing made as a result of this Act shall be deemed to be changes in the sentencing ranges by the Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

EXCERPT FROM CONFERENCE REPORT ON CRIME BILL

TITLE VIII—APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES

SEC. 80001. LIMITATIONS ON APPLICABILITY OF MANDATORY MINIMUM PENALTIES IN CERTAIN CASES.

(a) IN GENERAL.—Section 3553 of title 18, United States Code, is amended by adding at the end the following new subsection.

"(f) LIMITATION ON APPLICABILITY OF STATUTORY MINIMUMS IN CERTAIN CASES.—Notwithstanding any other provision of law, in the case of an offense under section 401, 404, or 406 of the Controlled Substances Act (21 U.S.C. 841, 844, 846) or section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963), the court shall impose a sentence pursuant to guidelines promulgated by the United States Sentencing Commission under section 994 of title 28 without regard to any statutory minimum sentence, if the court finds at sentencing that—

"(1) the defendant does not have more than 1 criminal history point, as determined under the sentencing guidelines;

"(2) the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;

"(3) the offense did not result in death or serious bodily injury to any person;

"(4) the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines; and

"(5) not later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement, and a defendant sentenced before this subsection takes effect shall be deemed to have satisfied the requirement of this paragraph if such defendant—

"(A) received an adjustment under the sentencing guidelines for acceptance of responsibility;

"(B) received a sentence below the applicable guideline range for having provided substantial assistance in the investigation or prosecution of another person who has committed an offense; or

"(C) provides to the Government, after moving for resentencing and before determination of that motion, all information that the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.

(b) SENTENCING COMMISSION AUTHORITY.—

(1) IN GENERAL.—(A) The United States Sentencing Commission (referred to in this subsection as the "Commission"), under section 994(a)(1) and (p) of title 28—

(i) Shall promulgate guidelines, or amendments to guidelines, to carry out the purposes of this section and the amendment made by this section; and

(ii) may promulgate policy statements, or amendments to policy statements, to assist in the application of this section and that amendment.

(B) In the case of a defendant for whom the statutorily required minimum sentence is 5 years, such guidelines and amendments to guidelines issued under subparagraph (A) shall call for a guideline range in which the lowest term of imprisonment is at least 24 months.

(2) PROCEDURES.—If the Commission determines that it is necessary to do so in order that the amendments made under paragraph (1) may take effect on the effective date of the amendment made by subsection (a), the Commission may promulgate the amendments made under paragraph (1) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired.

(c) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall apply to all sentences imposed on or after the 10th day beginning after the date of enactment of this Act.

SEC. 80002. SPECIAL RULE.

(a) OFFENSES SUBJECT TO SENTENCING GUIDELINES.—For the purpose of section 3582(c)(2) of title 18, United States Code, with respect to a prisoner who, as determined by the court, has demonstrated good behavior while in prison, the changes in sentencing made as a result of this title shall be deemed to be changes in the sentencing ranges by the United States Sentencing Commission pursuant to section 994(o) of title 28, United States Code.

(b) OFFENSES NOT SUBJECT TO SENTENCING GUIDELINES.—Notwithstanding any other provision of law, a defendant serving a term of imprisonment who—

(1) was convicted of an offense that occurred prior to November 1, 1987, or was sentenced as if the offense had occurred before such date:

(2) meets the criteria set forth in section 3553(f) of title 18, United States Code; and

(3) has demonstrated good behavior while in prison; shall be eligible for release consideration under the provisions of chapter 311 of title 18, United States Code (as such provisions remain applicable to an individual who committed an offense prior to November 1,

1987). Such a release determination shall be made pursuant to the guidelines and policy statements issued by the United States Sentencing Commission.

Mr. HATCH. I thank the Chair.

Perhaps recent developments will open the administration's eyes to the fact that our concerns about that provision are legitimate. Over the last several days the administration has been focused on turning a handful of votes. Consumed with this bare-knuckle strategy, they ignored their own prosecutors who attempted to broker some modest changes to the crime bill. Having been overlooked, President Clinton's prosecutors have been forced to publicly announce their opposition to this provision. That is no small thing. These are Democrat and Republican prosecutors.

The National Association of Assistant United States Attorneys, in a letter dated yesterday, has taken the position that they are "very much opposed" to the crime bill's mandatory minimum reform proposal. They note that the crime bill would permit as many as 20,000 petitions for early release. This sort of litigation will clog our courts and "dilute" Federal prosecutors' ability to do their jobs and would eliminate the leverage they need in order to nail certain types of drug traffickers.

Mr. President, I appreciate the courage of the administration's frontline prosecutors to publicly oppose the President on this issue, and I have no doubt that there are those up here and those down there who will threaten them from here on in and will try to hurt the careers of some of these people. So it took guts to do what they did, and we ought to be listening to them.

One can only wonder whether this step would have been necessary had the administration worked with the Republicans in a bipartisan manner.

Nevertheless, these men and women who represent the United States in all criminal prosecutions felt that they had to take this stand in the face of significant pressure from supporters of the crime bill. It is a testament to their fidelity to justice that they came forward. To continue to suggest, in the face of this sort of growing opposition, that our concerns about mandatory minimum reform in the crime bill are illegitimate, is ludicrous.

I have been an advocate for responsible mandatory minimum reform. I authored the Senate-passed provision. Indeed, the President's prosecutors support responsible reform. Nevertheless, this administration and the Congress owe it to our Nation's Federal prosecutors to listen to them and consider their suggested changes. After all, it is our prosecutors who will bear the burden of this so-called reform.

Mr. President, I ask unanimous consent that a copy of their letter to me dated August 17, and their policy brief, be printed in the RECORD.

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

NATIONAL ASSOCIATION OF
ASSISTANT UNITED STATES ATTORNEYS,
Alexandria, VA, August 17, 1994.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: The National Association of Assistant United States Attorneys has as its members front-line litigators. Our members represent the United States in all civil and criminal matters. We are our nation's lawyers. Most of our members are prosecutors who work very closely with federal and local law enforcement agencies.

In 1987, Congress enacted the Federal Sentencing Guidelines, which, in part, had stiff but appropriate sentencing provisions, incorporating mandatory minimum sentences for certain drug traffickers. Those mandatory minimums have given our prosecutors the ability to get drug dealers to cooperate by forcing them to work with us in giving up their source(s) of supply or face years of incarceration. When their cooperation is deemed to be "substantial" by a committee of Assistant United States Attorneys (or, in some cases, the United States Attorney), their sentences may be reduced by a federal Judge. In fiscal 1993, almost one-fifth of convicted defendants benefited by having their sentences reduced because they cooperated with law enforcement authorities. The results of that cooperation led to the arrest and conviction of numerous drug suppliers and their sources.

The present Crime Bill contains a provision which not only severely negates the benefits of "mandatory minimums" for a certain class of offenders, but also would permit the filing of 10,000 to 20,000 frivolous law suits which would cause prosecutors to spend their time in needless litigation instead of investigating and prosecuting criminals. The present provision would dilute prosecutors' ability to determine if a drug dealer has "substantially" cooperated. In effect, our leverage to get to the suppliers would be eliminated for certain types of drug traffickers. We cannot stand idly by and allow this very effective tool to be taken from us and the citizens we are sworn to protect.

The bill's present language is intended to address low level drug traffickers who are so minimally involved that they cannot have their sentences reduced because they truly cannot provide information or cooperation which would be deemed to be "substantial". In some instances under mandatory minimums (and the Department of Justice's requirement that prosecutors had to charge the most serious provable crime), some injustices occurred. We believe that should be corrected. However, Attorney General Reno fixed this problem some time ago by no longer requiring Assistant United States Attorneys to charge the most serious readily provable offense if that would result in a miscarriage of justice. In addition, our Association proposed minor revisions to the present bill which would codify the intent to appropriately treat first time low level traffickers. We are not opposed to these goals and objectives. We are, however, very much opposed to the way the present bill achieves them.

We believe that prosecutors are in the best position to determine if an individual has cooperated substantially or truly has nothing to offer and therefore meets the other criteria to receive a reduced sentence in accordance with this bill's present language. We have proposed, therefore, that in order to qualify for "safety valve" relief, the current language be amended as follows:

"(f)(5) is hereby amended by striking the current language and inserting:

"(f)(5) the government certifies that the defendant has timely and truthfully provided to the government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan."

We urge the Committee to make the change we have proposed.

Sincerely,

LAWRENCE J. LEISER, AUSA,
President, NAAUSA.

NATIONAL ASSOCIATION OF ASSISTANT UNITED STATES ATTORNEYS—POLICY BRIEF

MANDATORY MINIMUMS

The National Association of Assistant United States Attorneys represents frontline federal prosecutors, including criminal narcotics prosectors and designated Organized Crime Drug Enforcement Task Force prosecutors, charged with enforcing the federal narcotics laws. We are encouraged that "The Mandatory Minimum Sentencing Reform Act of 1994", H.R. 3979, as amended, and adopted by the Committee on the Judiciary's Crime Subcommittee, recognizes the importance of limiting relief from provisions of existing mandatory minimum sentences to those defendants who have made every effort to provide assistance to the government.

The proposed amendment to Section 3553 of Title 18, United States Code, to create a relief mechanism from application of mandatory minimum sentences in certain cases, includes the criteria as set forth in paragraph (5) that the defendant has provided to the government all information the defendant has concerning the offense or other criminal conduct related to the offense.

While we are encouraged by the obvious recognition that any relaxation from mandatory minimum application should be limited to those who provide information to the government, we suggest that the existing language is problematic in its application. The first difficulty arises as to who is in a position to determine whether a defendant has provided the government all information. Only the government is able to make that determination, by comparing the information provided with other evidence of the case. The current language would conceivably allow the defendant to self-servingly state "that's all I know," without the government being in a position to test that assertion by debriefings, polygraph results, etc. In order to assist in this process, the defendant should be required to provide any evidence he can, in addition to information.

Similarly, we are concerned that this relief mechanism not be available to a defendant who has provided information which is not truthful, or to a defendant who in providing certain truthful information, nevertheless, also lies about other aspects or details so as to mislead investigators or obstruct the investigation.

It also should be required that the information be timely. Under the current language, a defendant who goes to trial and is convicted, would presumably be able to stand up at sentencing, tell the government what it has already proved, and avoid the mandatory minimums under this escape provision.

Accordingly, we seek amended language which would require that the defendant must

provide timely information, truthful information, other evidence, and that the determination as to whether a defendant has provided all this be by certification by the government. Otherwise the sentencing court will be inundated by litigation calling upon it to make determinations it is not equipped to make.

This is the natural complement to the existing "Substantial Assistance" reduction mechanism currently embodied under Section 3553(e) of Title 18, United States Code. This provision has been responsibly applied by federal prosecutors throughout the country.

It reflects the recognition that the government is in the best position to make such a determination, and provides the incentive to the low-level defendant to work with the government in working up the ladder to identify and target higher-up drug traffickers. The current amendment properly recognizes that there are simply those who are not able to provide "substantial assistance" but who nevertheless have done everything they can to assist.

Simply put, society has a right to ask that a defendant provide all that he knows. If what he knows constitutes "substantial assistance" he will have already earned relief. (18 U.S.C. 3553(e)) If it does not, and he meets the other requirements of the currently proposed legislation, then justice dictates that he receive a lesser sentence.

The amended language which we have suggested (attached) will assure that defendants continue to have an incentive to cooperate with the United States by providing all truthful information in a timely manner, while allowing those who, through no fault of their own, are simply not in a position to provide "substantial assistance," an opportunity to receive a sentence below current mandatory minimums.

(f)(5) is hereby amended by striking:

"(5) no later than the time of the sentencing hearing, the defendant has provided to the Government all information the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide shall not preclude or require a determination by the court that the defendant has complied with this requirement."

and inserting:

"(5) the government certifies that the defendant has timely and truthfully provided to the government all information, and evidence that defendant has concerning the offenses or offenses that were part of the same course of conduct or of a common scheme or plan."

Mr. HATCH. As my colleagues know, I have also opposed wasteful social spending in the bill. Specifically, I have opposed the Local Partnership Act, the YES Program, and the Model Intensive Grants Programs, to just name a few. These three programs alone account for nearly $3.6 billion of pork-barrel programs in the crime bill, and they should be dropped.

Ironically, I have not heard many defenders of the crime bill defending these pork feeding frenzies. Instead, my colleagues on the other side of the aisle have suggested that Republicans once supported similar programs in the past.

The crime bill's Model Intensive Grants Program is an $895 million pork program for 15 cities handpicked by the administration. Republicans oppose it. My friend from Delaware has suggested that this program is similar to a measure Senator D'AMATO and Senator GORTON supported. The measure he cites is a bill to provide emergency aid of up to $50 million to cities which the President declares to be major drug emergency areas. This was a 1991 bill. This was a bill Senator BIDEN introduced. Senators GORTON and D'AMATO were only 2 of the bill's 16 cosponsors. To suggest that limited Republican support for this 1991 disaster areas bill somehow excuses the big-city ripoff of the model intensive grants is not just a stretch, it's an extraordinary leap. Such as argument illustrates the extreme lengths to which some will go to defend this crime bill.

Senator BIDEN has suggested that since midnight basketball may have been one of President Bush's so-called points of light, we have to make a $50 million Federal program out of it. The fact of the matter is, the point-of-light concept was intended to encourage private sector involvement in crime prevention and education efforts. Indeed, midnight basketball programs are largely funded by the private sector. Supporters of midnight basketball say its a success and it has done so without huge Government handouts.

Another reason Republicans oppose the crime bill is its soft truth-in-sentencing provision. It has been suggested that the Republican conferees voted against tough truth-in-sentencing. True, the Senate Republican conferees did vote against the Biden prison amendment which incorporated a truth-in-sentencing amendment. But that was only after the Democrat conferees had rejected a tougher Republican prison proposal which contained truth-in-sentencing.

We did not oppose the Biden prison amendment because of its truth-in-sentencing provision—and my colleague from Delaware should know that. We opposed it because the amount it proposed for prison construction was inadequate. Furthermore, the amendment contained a reverter provision which required that the truth-in-sentencing grants be diverted into other programs if the money was not spent quickly.

Mr. President, I ask unanimous consent that a copy of the Hatch prisons amendment, which all Senate Republican conferees supported, be printed in the RECORD.

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

TITLE I—VIOLENT REPEAT OFFENDER INCARCERATION

SEC. 101. PRISON GRANTS.

(a) IN GENERAL.—The Attorney General may provide formula grants to eligible States and to eligible States organized as regional compacts to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities and jails, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

(b) FEDERAL FUNDS.—

(1) FORMULA FOR DISTRIBUTION OF FUNDS.—Of the total amount of funds appropriated under this section for each fiscal year—

(A) $500,000 or 0.40 percent, whichever is greater, shall be allocated to each of the participating States; and

(B) of the total funds remaining after the allocation under subparagraph (A), there shall be allocated to each participating State an amount that bears the same ratio to the amount of remaining funds as the population of the State bears to the population of all of the participating States.

(2) DISTRIBUTION OF FUNDS.—

(A) GENERAL FUND.—50 percent of the total amount of funds appropriated under this section for each fiscal year shall be allocated to each State (including a State that is participating in a regional compact) that meets the eligibility requirements of paragraph (3) according to the formula stated in paragraph (1).

(B) INCENTIVE FUND.—50 percent of the total amount of funds appropriated shall be allocated under an incentive fund to each State (including a State that is participating in a regional compact) that meets the eligibility requirements of paragraph (4) according to the formula stated in paragraph (1).

(3) ELIGIBILITY FOR GENERAL FUND.—In order to be eligible for a grant from the general fund under paragraph (2)(A), a State or States organized as regional compacts shall submit an application and give the Attorney General assurances that each State applying—

(A) will make a good faith effort to become eligible for a grant under paragraph (5); and

(B)(i)(I) since 1993 has increased the percentage of convicted violent offenders sentenced to prison;

(II) since 1993 has increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

(III) since 1993 has increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison; or

(ii) in the case of a State that on the date of enactment of this Act practices indeterminant sentencing, experiences average times served for the offenses of murder, rape, robbery, and assault in the State that exceed by at least 10 percent the national average of times served for such offenses in all of the States.

(4) ELIGIBILITY FOR INCENTIVE FUND.—

(A) IN GENERAL.—In order to be eligible for a grant from the incentive fund under paragraph (2)(B), a State or States organized as regional compacts shall submit an application and demonstrate that each State applying—

(i) has in effect, or has enacted legislation that will result in the State's having in effect within 3 years after the date of enactment of such legislation, laws and regulations that include—

(I) truth-in-sentencing laws requiring that, except as provided in subparagraph (B), a person convicted of a serious violent felony

serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing;

(II) pretrial detention similar to and at least as restrictive as that provided in the Federal system under section 3142 of title 18, United States Code;

(III) laws requiring that the sentencing or releasing authorities notify and allow the defendant's victims or the family of victims the opportunity to be heard regarding the issue of sentencing and any post-conviction release; and

(IV) laws requiring that, except as provided in subparagraph (B), a person who is convicted of a serious violent felony shall be sentenced to life imprisonment if—

(aa) the person has been convicted (and those convictions have become final) on 2 or more prior occasions in a court of the United States or of a State of a serious violent felony, or of 1 or more serious violent felonies and 1 or more serious drug offenses; and

(bb) each serious violent felony or serious drug offense used as a basis for sentencing under this subparagraph, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense; or

(ii) in the case of a State that on the date of enactment of this Act practices indeterminant sentencing, experiences average times served for the offenses of murder, rape, robbery, and assault in the State that exceed by at least 10 percent the national average of times served for such offenses in all of the States and the State meets the requirements of clause (i) (II) and (III).

(v) laws prohibiting the consideration of an inmate's residency status in determining release dates.

(B) RELEASE OF OLDER PRISONERS.—A law described in subparagraph (A) (i) or (iii) may provide that the Governor of the State may allow for the release of a prisoner over the age of 70 after a public hearing in which representatives of the public and the prisoner's victims have an opportunity to be heard regarding a proposed release.

(5) EXPEDITION OF OUTLAYS.—All funds appropriated for the purposes of this section shall be distributed by the Attorney General within 180 days after the appropriation is made. The Attorney General may not require States to expend distributed funds as a condition of eligibility.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,250,000,000 for fiscal year 1995, $2,500,000,000 for fiscal year 1996, $3,750,000,000 for fiscal year 1997, and $5,500,000,000 for fiscal year 1998.

(2) PRIORITY.—No funds for other purposes authorized by this Act to be appropriated for purposes other than the purposes of this section for fiscal years 1995, 1996, 1997, 1998, or 1999 shall be appropriated unless the programs under this section are fully funded in those years.

(3) LIMITATIONS ON FUNDS.—

(A) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

(B) PROHIBITED USES.—Funds made available under this section shall not be used for treatment, education, or recreation costs associated with convicted violent offenders.

(C) ADMINISTRATIVE COSTS.—Not more than 1 percent of the funds available under this section may be used for administrative costs.

(D) MATCHING FUNDS.—The Federal share of a grant received under this section may not exceed 75 percent of the costs of a proposal as described in an application approved under this section.

(E) CARRYOVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall be carried over and shall be made available until expended.

(d) DEFINITIONS.—

(1) IN GENERAL.—In this section—

"arson", subject to paragraph (2), means an offense that has as its elements maliciously damaged or destroying any building, inhabited structure, vehicle, vessel, or real property by means of fire or an explosive.

"assault with intent to commit rape" means an offense that has as its elements engaging in physical conduct by which a person intentionally places another person in fear of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code).

"extortion" means an offense that has as its elements the extraction of anything of value from another person by threatening or placing that person in fear of injury to any person or kidnapping of any person.

"firearms use" means an offense that has as its elements those described in section 924(c) or 929(a) of title 18, United States Code, if the firearm was brandished, discharged, or otherwise used as a weapon and the crime of violence or drug trafficking crime during and in relation to which the firearm was used was subject to prosecution in a court of the United States or a court of a State, or both.

"indeterminate sentencing" means a system by which the court has discretion on imposing the actual length of the sentence, up to the statutory maximum and an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence.

"kidnapping" means an offense that has as its elements the abduction, restraining, confining, or carrying away of another person by force or threat of force.

"serious violent felony" means—

(i) a Federal or State offense, by any designation and wherever it may be committed, consisting of murder (as described in section 1111 of title 18, United States Code); manslaughter other than involuntary manslaughter (as described in section 1112 of that title); assault with intent to commit murder (as described in section 113(a) of that title); assault with intent to commit rape; aggravated sexual abuse and sexual abuse (as described in sections 2241 and 2242 of that title); abusive sexual contact (as described in sections 2244(a)(1) and 2244(a)(2) of that title); kidnapping; aircraft piracy (as described in section 902(i)(2) or 902(n)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)(2) or (n)(2)); robbery (as described in section 2111, 2113, or 2118 of title 18, United States Code), subject to paragraph (2); carjacking (as described in section 2119 of that title); extortion; arson, subject to paragraph (3); firearms use; or attempt, conspiracy, or solicitation to commit any of the offenses described in this subparagraph; and

(ii) any other offense punishable by a maximum term of imprisonment of 10 years or more that has as an element the use, attempted use, or threatened use of physical force against the person of another or that, by its nature, involves a substantial risk that physical force against the person of another may be used in the course of committing the offense.

"serious drug offense" means—

(A) an offense subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act; and

(B) an offense under State law that, had the offense been prosecuted in a court of the United States, would have been subject to a penalty provided for in section 401(b)(1)(A) or 408 of the Controlled Substances Act or section 1010(b)(1)(A) of the Controlled Substances Import and Export Act.

"State" means a State, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(2) OFFENSES NOT COUNTED IN CERTAIN CIRCUMSTANCES.—

(A) ROBBERY AND OTHER SERIOUS VIOLENT OFFENSES.—A case of robbery or an attempt, conspiracy, or solicitation to commit robbery, or an offense described in clause (ii) of the definition of "serious violent penalty" in paragraph (1) shall not be counted for the purposes of this section if the defendant establishes by clear and convincing evidence that—

(i) no firearm or other dangerous weapon was involved in the offense and no threat of use of a firearm or other dangerous weapon was involved in the offense; and

(ii) the offense did not result in death or serious bodily injury (as defined in section 1365) to any person.

(B) ARSON.—A case of arson shall not be counted for the purposes of this section if the defendant establishes by clear and convincing evidence that—

(i) the offense posed no threat to human life; and

(ii) the defendant reasonably believed that the offense posed no threat to human life.

Mr. HATCH. Mr. President, many Republicans have raised concerns about the crime bill's rejection of the community notification provision of the child predator language. It has been suggested by supporters of the crime bill that the community notification provision is in the crime bill. That simply is not the case.

The Senate-passed crime bill allowed local law enforcement agencies to release to the public the identity of convicted sex offenders living in our neighborhoods. It also granted law enforcement limited immunity when they chose to notify a community. The crime bill conference report, on the other hand, protects the privacy of registered sex offenders and child molesters. Information collected under the conference report "shall be treated as private data." The information may be released only for law enforcement purposes and to "notify the victims of the offender." That is found on page 283 of the conference report. Could somebody please tell me how this permits community notification? Who is kidding who.

I ask unanimous consent that the relevant Senate-passed language and the conference report language be printed in the RECORD at this point.

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

EXCERPT FROM SENATE AMENDMENT TO CRIME BILL

(c) COMMUNITY NOTIFICATION.—The designated State law enforcement agency may release relevant information that is necessary to protect the public concerning a specific sexually violent predator required to register under this section.

(d) IMMUNITY FOR GOOD FAITH CONDUCT.—Law enforcement agencies, employees of law enforcement agencies, and State officials shall be immune from liability for any good faith conduct under this section.

EXCERPT FROM CONFERENCE REPORT ON CRIME BILL

(5) PRIVACY OF DATA.—The information collected under a State registration program shall be treated as private data on individuals and may be disclosed only to law enforcement agencies for law enforcement purposes or to government agencies conducting confidential background checks with fingerprints. A law enforcement agency may release relevant information concerning a sex offender required to register under this section when such release of information is necessary to carry out law enforcement purposes or to notify the victims of the offender.

Mr. HATCH. Mr. President, another concern of ours has been the crime bill's failure to include the Simpson criminal alien deportation provisions which passed the Senate. Here again, Democrats have suggested that the crime bill contains these provisions. Once again, that is not accurate. The crime bill does contain some enhanced penalties for failure to depart, of for reentry, by criminal aliens. Yet, several major criminal alien deportation reforms were dropped including a judicial deportation provision, an expanded definition of aggravated felony, and restrictions on certain deportation defenses where certain crimes have been committed.

I ask unanimous consent that the relevant conference report language and a copy of the Simpson language be printed in the RECORD at this point.

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

SIMPSON CRIMINAL ALIEN AMENDMENT REJECTED IN CONFERENCE

TITLE L—DEPORTATION OF ALIENS CONVICTED OF CRIMES

SEC. 5001. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or budgetary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 33 months;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense relating to perjury or subornation of perjury if the offense involved causing or threatening to cause physical injury to a person or damage to property;

"(M) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(N) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(O) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(P) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section;

"(Q) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(R) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 5002. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(f) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216 or 216A) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(5) Pending a determination of deportability under this section, the Attorney General shall not release the alien. An order of deportation entered pursuant to this section shall be executed by the Attorney General in accordance with section 243. Proceedings before the Attorney General under this section shall be in accordance with such regulations as the Attorney General shall prescribe and shall include requirements that provide that—

"(A) the alien is given reasonable notice of the charges;

"(B) the alien has an opportunity to have assistance of counsel at no expense to the government and in a manner that does not unduly delay the proceedings;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by reasonable, substantial, and probative evidence; and

"(E) the final order of deportation is not adjudicated by the same person who issued such order.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by redesignating subsection (f), as added by subsection (a) of this section, as subsection (c);

(7) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be deportable from the United States."; and

(8) by amending the section heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 5003. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the Service, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter the privilege of being represented at no expense to the Government set forth in section 292 of the Immigration and Nationality Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 5004. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final. For purposes of this section, the term 'sentence' does not include a sentence the execution of which was suspended in its entirety.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5005. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or 4 of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. 5006. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C.

1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media, in the discretion of the special inquiry officer, or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 5007. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,000,000 for fiscal year 1994 and $6,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

SENATE-PASSED CRIMINAL ALIEN DEPORTATION

TITLE L—DEPORTATION OF ALIENS CONVICTED OF CRIMES

SEC. 5001. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or budgetary offense for which a sentence of 5 years' imprisonment or more may be imposed;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in—

"(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations); or

"(ii) section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses),

for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(L) an offense that—

"(i) relates to the owning, controlling, managing or supervising of a prostitution business;

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or

"(iii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) an offense relating to perjury or subornation of perjury for which a sentence of 5 years' imprisonment or more may be imposed;

"(N) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(O) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(P) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage;

"(R) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

"(S) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 5002. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 5003. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 5004. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5005. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or 4 of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors invoving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. 5006. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.— No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 5007. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Commissioner of Immigration and Naturalization, with the cooperation of the Director of the Federal Bureau of Investigation and the heads of other agencies, shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

TITLE LI—GENERAL PROVISIONS

SEC. 5101. CREDITING OF "GOOD TIME".

Section 3624 of title 18, United States Code, is amended—

(1) by striking "he" each place it appears and inserting "the prisoner";

(2) by striking "his" each place it appears and inserting "the prisoner's";

(3) in subsection (d) by striking "him" and inserting "the prisoner"; and

CONFERENCE REPORT

TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT

SEC. 130001. ENHANCEMENT OF PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or (4) of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors involving drugs, crimes against the person, or both, or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

SEC. 130002. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $3,400,000 for fiscal year 1996;

(2) $3,600,000 for fiscal year 1997;

(3) $3,700,000 for fiscal year 1998;

(4) $3,800,000 for fiscal year 1999; and

(5) $3,900,000 for fiscal year 2000.

* * * * *

(b) CONDITIONS OF ENTRY.—

(1) WAIVER OF GROUNDS FOR EXCLUSION.—Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by inserting at the beginning the following new paragraph:

"(1) The Attorney General shall determine whether a ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting deportation proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).".

(2) NUMERICAL LIMITATIONS; PERIOD OF ADMISSION; ETC.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(j)(1) The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(i) in any fiscal year may not exceed 100. The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S)(ii) in any fiscal year may not exceed 25.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than 5 years after the date of the enactment of this subsection.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed 3 years. Such period may not be extended by the Attorney General.

"(4) As a condition for the admission, and continued stay in lawful status, of such a nonimmigrant, the nonimmigrant—

"(A) shall report not less often than quarterly to the Attorney General such information concerning the alien's whereabouts and activities as the Attorney General may require;

"(B) may not be convicted of any criminal offense punishable by a term of imprisonment of 1 year or more after the date of such admission;

"(C) must have executed a form that waives the nonimmigrant's right to contest, other than on the basis of an application for withholding of deportation, any action for deportation of the alien instituted before the alien obtains lawful permanent resident status; and

"(D) shall abide by any other condition, limitation, or restriction imposed by the Attorney General.

"(5) The Attorney General shall submit a report annually to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate concerning—

"(A) the number of such nonimmigrants admitted;

"(B) the number of successful criminal prosecutions or investigations resulting from cooperation of such aliens;

"(C) the number of terrorist acts prevented or frustrated resulting from cooperation of such aliens;

"(D) the number of such nonimmigrants whose admission or cooperation has not resulted in successful criminal prosecution or investigation or the prevention or frustration of a terrorist act; and

"(E) the number of such nonimmigrants who have failed to report quarterly (as required under paragraph (4)) or who have been convicted of crimes in the United States after the date of their admission as such a nonimmigrant.".

(3) PROHIBITION OF CHANGE OF STATUS.—Section 248(1) of the Immigration and Naturalization Act (8 U.S.C. 1258(1)) is amended by striking "or (K)" and inserting "(K), or (S)".

(c) ADJUSTMENT TO PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(i)(1) If, in the opinion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(i) has supplied information described in subclause (I) of such section; and

"(B) the provision of such information has substantially contributed to the success of an authorized criminal investigation or the prosecution of an individual described in subclause (III) of that section,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under that section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(2) If, in the sole discretion of the Attorney General—

"(A) a nonimmigrant admitted into the United States under section 101(a)(15)(S)(ii) has supplied information described in subclause (I) of such section, and

"(B) the provision of such information has substantially contributed to—

"(i) the prevention or frustration of an act of terrorism against a United States person or United States property, or

"(ii) the success of an authorized criminal investigation of, or the prosecution of, an individual involved in such an act of terrorism, and

"(C) the nonimmigrant has received a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

the Attorney General may adjust the status of the alien (and the spouse, married and unmarried sons and daughters, and parents of the alien if admitted under such section) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E).

"(3) Upon the approval of adjustment of status under paragraphs (1) or (2), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current.".

(2) EXCLUSIVE MEANS OF ADJUSTMENT.—Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended by striking "or" before "(4)" and by inserting before the period at the end the following: "; or (5) an alien who was admitted as a nonimmigrant described in section 101(a)(15)(S)".

(d) EXTENSION OF PERIOD OF DEPORTATION FOR CONVICTION OF A CRIME.—Section 241(a)(2)(A)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(I)) is amended by inserting "(or 10 years in the case of an alien provided lawful permanent resident status under section 245(i))" after "five years".

SEC. 130004. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(b) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) The Attorney General may, in the case of an alien described in paragraph (2), determine the deportability of such alien under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony) and issue an order of deportation pursuant to the procedures set forth in this subsection or section 242(b).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time at which proceedings under this section commenced; and

"(B) is not eligible for any relief from deportation under this Act.

"(3) The Attorney General may not execute any order described in paragraph (1) until 30 calendar days have passed from the date that such order was issued, unless

waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(4) Proceedings before the Attorney General under this subsection shall be in accordance with such regulations as the Attorney General shall prescribe. The Attorney General shall provide that—

"(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

"(B) the alien shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by clear, convincing, and unequivocal evidence and a record is maintained for judicial review; and

"(E) the final order of deportation is not entered by the same person who issues the charges.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d)(1) A petition for review or for habeas corpus on behalf of an alien against whom a final order of deportation has been issued pursuant to section 242A(b) may challenge only—

"(A) whether the alien is in fact the alien described in the order;

"(B) whether the alien is in fact an alien described in section 242A(b)(2);

"(C) whether the alien has been convicted of an aggravated felony and such conviction has become final; and

"(D) whether the alien was afforded the procedures required by section 242A(b)(5).

"(2) No court shall have jurisdiction to review any issue other than an issue described in paragraph (1).".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES";

(2) in subsection (a), as designated prior to enactment of this Act, by striking "(a) IN GENERAL.—" and inserting the following:

"(a) DEPORTATION OF CRIMINAL ALIENS.—

"(1) IN GENERAL.—";

(3) in subsection (b), as designated prior to enactment of this Act, by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—";

(4) by striking subsection (c);

(5) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)"; and

(B) by striking "(2)" and inserting "(B)"; and

(6) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 130005. EXPEDITIOUS DEPORTATION FOR DENIED ASYLUM APPLICANTS.

(a) IN GENERAL.—The Attorney General may provide for the expeditious adjudication of asylum claims and the expeditious deportation of asylum applicants whose applications have been finally denied, unless the applicant remains in an otherwise valid nonimmigrant status.

(b) EMPLOYMENT AUTHORIZATION.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e) An applicant for asylum is not entitled to employment authorization except as may be provided by regulation in the discretion of the Attorney General.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $64,000,000 for fiscal year 1995;

(2) $90,000,000 for fiscal year 1996;

(3) $93,000,000 for fiscal year 1997; and

(4) $91,000,000 for fiscal year 1998.

SEC. 130006. IMPROVING BORDER CONTROLS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Immigration and Naturalization Service to increase the resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire—

(1) $228,000,000 for fiscal year 1995, of which $181,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $47,000,000 is authorized from the General Fund of the Treasury;

(2) $185,000,000 for fiscal year 1996, of which $137,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

(3) $204,000,000 for fiscal year 1997, of which $156,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

(4) $58,000,000 for fiscal year 1998, of which $10,000,000 is authorized to be appropriated from the Violent Crime Reduction Trust Fund established by this Act, and $48,000,000 is authorized from the General Fund of the Treasury;

Of the sums authorized in this section, all necessary funds shall, subject to the availability of appropriations, be allocated to increase the number of agent positions (and necessary support personnel positions) in the Border Patrol by not less than 1,000 full-time equivalent positions in each of fiscal years 1995, 1996, 1997, and 1998 beyond the number funded as of October 1, 1994.

(b) REPORT.—By September 30, 1996 and September 30, 1998, the Attorney General shall report to the Congress on the programs described in this section. The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

SEC. 130007. EXPANDED SPECIAL DEPORTATION PROCEEDINGS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Attorney General may expand the program authorized by section 242A(d) and 242(i) of the Immigration and Nationality Act to ensure that such aliens are immediately deportable upon their release from incarceration.

(b) DETENTION AND REMOVAL OF CRIMINAL ALIENS.—Subject to the availability of appropriations, the Attorney General may—

(1) construct or contract for the construction of 2 Immigration and Naturalization Service Processing Centers to detain criminal aliens; and

(2) provide for the detention and removal of such aliens.

(c) REPORT.—By September 30, 1996, and September 30, 1998 the Attorney General shall report to the Congress on the programs referred to in subsections (a) and (b). The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $55,000,000 for fiscal year 1995;

(2) $54,000,000 for fiscal year 1996;

(3) $49,000,000 for fiscal year 1997; and

(4) $2,000,000 for fiscal year 1998.

SEC. 130008. AUTHORITY TO ACCEPT CERTAIN ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, the Attorney General, in the discretion of the Attorney General, may accept, hold, administer, and utilize gifts of property and services (which may not include cash assistance) from State and local governments for the purpose of assisting the Immigration and Naturalization Service in the transportation of deportable aliens who are arrested for misdemeanor or felony crimes under State or Federal law and who are either unlawfully within the United States or willing to submit to voluntary departure under safeguards. Any property acquired pursuant to this section shall be acquired in the name of the United States.

(b) LIMITATION.—The Attorney General shall terminate or rescind the exercise of the authority under subsection (a) if the Attorney General determines that the exercise of such authority has resulted in discrimination by law enforcement officials on the basis of race, color, or national origin.

SEC. 130009. PASSPORT AND VISA OFFENSES PENALTIES IMPROVEMENT.

(a) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended—

(1) in section 1541 by striking "not more than $500 or imprisoned not more than one year" and inserting "under this title, imprisoned not more than 10 years";

(2) in each of sections 1542, 1543, and 1544 by striking "not more than $2,000 or imprisoned not more than five years" and inserting "under this title, imprisoned not more than 10 years";

(3) in section 1545 by striking "not more than $2,000 or imprisoned not more than three years" and inserting "under this title, imprisoned not more than 10 years";

(4) in section 1546(a) by striking "five years" and inserting "10 years";

(5) in section 1546(b) by striking "in accordance with this title, or imprisoned not more than two years" and inserting "under this title, imprisoned not more than 5 years"; and

(6) by adding at the end the following new section:

"§ 1547. Alternative imprisonment maximum for certain offenses

"Notwithstanding any other provision of this title, the maximum term of imprisonment that may be imposed for an offense under this chapter (other than an offense under section 1545)—

"(1) if committed to facilitate a drug trafficking crime (as defined in 929(a)) is 15 years; and

"(2) if committed to facilitate an act of international terrorism (as defined in section 2331) is 20 years.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 75 of title 18, United States Code, is amended by adding at the end the following new item:

"1547. Alternative imprisonment maximum for certain offenses.".

SEC. 130010. ASYLUM.

(a) FINDINGS.—The Senate finds that—

(1) in the last decade applications for asylum have greatly exceeded the original 5,000 annual limit provided in the Refugee Act of 1980, with more than 150,000 asylum applications filed in fiscal year 1993, and the backlog of cases growing to 340,000;

(2) this flood of asylum claims has swamped the system, creating delays in the processing of applications of up to several years;

(3) the delay in processing asylum claims due to the overwhelming numbers has contributed to numerous problems, including—

(A) an abuse of the asylum laws by fraudulent applicants whose primary interest is obtaining work authority in the United States while their claim languishes in the backlogged asylum processing system;

(B) the growth of alien smuggling operations, often involving organized crime;

(C) a drain on limited resources resulting from the high cost of processing frivolous asylum claims through our multilayered system; and

(D) an erosion of public support for asylum, which is a treaty obligation.

(4) asylum, a safe haven protection for aliens abroad who cannot return home, has been perverted by some aliens who use asylum claims to circumvent our immigration and refugee laws and procedures; and

(5) a comprehensive revision of our asylum law and procedures is required to address these problems.

(b) POLICY.—It is the sense of the Senate that—

(1) asylum is a process intended to protect aliens in the United States who cannot safely return home;

(2) persons outside their country of nationality who have a well-founded fear of persecution if they return should apply for refugee status at one of our refugee processing offices abroad; and

(3) the immigration, refugee and asylum laws of the United States should be reformed to provide—

(A) a procedure for the expeditious exclusion of any asylum applicant who arrives at a port-of-entry with fraudulent documents, or no documents, and makes a noncredible claim of asylum; and

(B) the immigration, refugee and asylum laws of the United States should be reformed to provide for a streamlined affirmative asylum processing system for asylum applicants who make their application after they have entered the United States.

Mr. HATCH. Mr. President, another issue: mandatory restitution for victims of violent crime. The conference committee rejected the Senate-passed Nickles provision which requires mandatory restitution to victims of violent crime. Here again, it has been suggested that we are wrong. It has been suggested that there is a comprehensive mandatory restitution provision in the bill. Yet, the crime bill only mandates restitution in Federal sex offenses and certain crimes against children. Why did the conferees stop there? Why did they reject the Nickles amendment? Other victims of violent crime are left out in the cold.

I ask unanimous consent that the Senate-passed Nickles amendment and the relevant conference report language be inserted in the RECORD at this point.

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

SENATE AMENDMENT—VICTIMS RIGHTS RESTITUTION

SEC. 902. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(5) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(6) by striking subsections (d), (e), (f), (g), and (h); and

(7) by adding at the end the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 903. SENSE OF THE CONGRESS CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Congress that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing * * *

* * * * *

SEC. 3213. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—(1) Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(2) The table of sections for chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"2259. Mandatory restitution.".

SEC. 3214. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1994, $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

* * * * *

SEC. 3704. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 3705. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

CONFERENCE REPORT—VICTIMS RIGHTS

TITLE XXIII—VICTIMS OF CRIME

Subtitle A—Victims of Crime

SEC. 230101. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure which are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the following amendments:

(b) IN GENERAL.—Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (c)(3)(C);

(2) striking the period at the end of subdivision (c)(3)(D) and inserting "; and";

(3) inserting after subdivision (c)(3)(D) the following:

"(E) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence.";

(4) in subdivision (c)(3)(D), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (c)(4), striking "and (D)" and inserting "(D), and (E)";

(6) in the last sentence of subdivision (c)(4), inserting "the victim," before "or the attorney for the Government."; and

(7) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victim' means any individual against whom an offense has been committed for which a sentence is to be imposed, but the right of allocution under subdivision (c)(3)(E) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall become effective on December 1, 1994.

SEC. 230102. SENSE OF THE SENATE CONCERNING THE RIGHT OF A VICTIM OF A VIOLENT CRIME OR SEXUAL ABUSE TO SPEAK AT AN OFFENDER'S SENTENCING HEARING AND ANY PAROLE HEARING.

It is the sense of the Senate that—

(1) the law of a State should provide for a victim's right of allocution at a sentencing hearing and at any parole hearing if the offender has been convicted of a crime of violence or sexual abuse;

(2) such a victim should have an opportunity equivalent to the opportunity accorded to the offender to address the sentencing court or parole board and to present information in relation to the sentence imposed or to the early release of the offender; and

(3) if the victim is not able to or chooses not to testify at a sentencing hearing or parole hearing, the victim's parents, legal guardian, or family members should have the right to address the court or board.

Subtitle B—Crime Victims' Fund

SEC. 230201. ALLOCATION OF FUNDS FOR COSTS AND GRANTS.

(a) GENERALLY.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by—

(1) striking paragraph (2) and inserting the following:

"(2) the next $10,000,000 deposited in the Fund shall be available for grants under section 1404A.";

(2) striking paragraph (3) and inserting the following:

"(3) Of the remaining amount deposited in the Fund in a particular fiscal year—

"(A) 48.5 percent shall be available for grants under section 1403;

"(B) 48.5 percent shall be available for grants under section 1404(a); and

"(C) 3 percent shall be available for grants under section 1404(c).";

(3) striking paragraph (4) and inserting the following:

"(4) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not exceed $20,000,000."; and

(4) striking paragraph (5).

(b) CONFORMING CROSS REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(d)(2)(D)" and inserting "(d)(2)".

SEC. 230202. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay,—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 230203. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following new paragraph:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the State crime victim compensation program receiving the grant.".

SEC. 230204. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 230205. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended by adding at the end the following new subsection:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the State crime victim assistance program receiving such sums.".

SEC. 230206. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following new subsection:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 230207. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended by striking "and on December 31 every two years thereafter", and inserting "and on June 30 every two years thereafter".

SEC. 230208. AMENDMENT OF THE VICTIMS OF CRIME ACT.

Section 1404(a)(5)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(5)(B)) is amended to read as follows:

"(B) $200,000 thereafter.".

* * * * *

SEC. 40113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) SEXUAL ABUSE.—

(1) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution also may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment

of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2248. Mandatory restitution.".

(b) SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN.—

(1) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2259. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding section 3663, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—

"(1) DIRECTIONS.—The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) ENFORCEMENT BY VICTIM.—An order of restitution may also be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"(3) DEFINITION.—For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, as well as other costs incurred; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

"(B) A court may not decline to issue an order under this section because of—

"(i) the economic circumstances of the defendant; or

"(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(C)(i) Notwithstanding subparagraph (A), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(ii) For purposes of this subparagraph, the term 'economic circumstances' includes—

"(I) the financial resources and other assets of the defendant;

"(II) projected earnings, earning capacity, and other income of the defendant; and

"(III) any financial obligations of the defendant, including obligations to dependents.

"(D) Subparagraph (A) does not apply if—

"(i) the court finds on the record that the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of the amount of a restitution order in the foreseeable future (under any reasonable schedule of payments); and

"(ii) the court enters in its order the amount of the victim's losses, and provides a nominal restitution award.

"(5) MORE THAN 1 OFFENDER.—When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(6) MORE THAN 1 VICTIM.—When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(7) PAYMENT SCHEDULE.—An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals.

"(8) SETOFF.—Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(9) EFFECT ON OTHER SOURCES OF COMPENSATION.—The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source

until the payments actually received by the victim under the restitution order fully compensate the victim for the loss.

"(10) CONDITION OF PROBATION OR SUPERVISED RELEASE.—Compliance with a restitution order issued under this section shall be a condition of any probation or supervised release of a defendant. If an offender fails to comply with a restitution order, the court may, after a hearing, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, or hold the defendant in contempt pursuant to section 3583(e). In determining whether to revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release or hold a defendant serving a term of supervised release in contempt, the court shall consider the defendant's employment status, earning ability and financial resources, the willfulness of the defendant's failure to comply, and any other circumstances that may have a bearing on the defendant's ability to comply.

"(c) PROOF OF CLAIM.—

"(1) AFFIDAVIT.—Within 60 days after conviction and, in any event, not later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) OBJECTION.—If, after the defendant has been notified of the affidavit, no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) ADDITIONAL DOCUMENTATION AND TESTIMONY.—If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

"(4) FINAL DETERMINATION OF LOSSES.—If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing as provided in paragraph (1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

"(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

"(f) DEFINITION.—For purposes of this section, the term 'victim' means the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 110 of title 18, United States Code, is amended by adding at the end the following new item:

"2259. Mandatory restitution.".

SEC. 40114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There are authorized to be appropriated for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia)—

(1) $500,000 for fiscal year 1996;

(2) $500,000 for fiscal year 1997; and

(3) $500,000 for fiscal year 1998.

CHAPTER 2—LAW ENFORCEMENT AND PROSECUTION GRANTS TO REDUCE VIOLENT CRIMES AGAINST WOMEN

SEC. 40121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 32101(a), is amended—

(1) by redesignating part T as part U;

(2) by redesignating section 2001 as section 2101; and

(3) by inserting after part S the following new part:

* * * * *

Subtitle E—Violence Against Women Act Improvements

SEC. 40501. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 40502. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 40503. PAYMENT OF COST OF TESTING FOR SEXUALLY TRANSMITTED DISEASES.

(a) FOR VICTIMS IN SEX OFFENSE CASES.—Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by adding at the end the following: "The Attorney General shall provide for the payment of the cost of up to 2 anonymous and confidential tests of the victim for sexually transmitted diseases, including HIV, gonorrhea, herpes, chlamydia, and syphilis, during the 12 months following sexual assaults that pose a risk of transmission, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim as the result of the assault. A victim may waive anonymity and confidentiality of any tests paid for under this section.".

(b) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this Act, the United States Sentencing Commission shall conduct a study and prepare and submit to the committees on the Judiciary of the Senate and the House of Representatives a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 40504. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting "including an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(2) by striking "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 40505. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A Federal agency shall immediately suspend all Federal benefits provided by the agency to the defendant, and shall terminate the defendant's eligibility for Federal benefits administered by that agency, upon receipt of a certified copy of a written judicial finding that the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section.

"(2) Any written finding of delinquency described in paragraph (1) shall be made by a court, after a hearing, upon motion of the victim named in the order to receive the restitution or upon motion of the United States.

"(3) A defendant found to be delinquent may subsequently seek a written finding from the court that the defendant has rectified the delinquency or that the defendant

has made and will make good faith efforts to rectify the delinquency. The defendant's eligibility for Federal benefits shall be reinstated upon receipt by the agency of a certified copy of such a finding.

"(4) In this subsection, "Federal benefit" means a grant, contract, loan, professional license, or commercial license provided by an agency of the United States.".

SEC. 40506. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General, in consultation with the Secretary of Education, shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a) and data collected under the Student Right-To-Know and Campus Security Act (20 U.S.C. 1001 note; Public Law 101-542) and amendments made by that Act, the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

Mr. HATCH. Mr. President, these are just some examples of the way in which supporters of the crime bill are trying to confuse the public about what is and what is not in this crime bill. In the coming days, congressional Democrats and the administration will need to reconcile whether they want a crime bill or an issue. Republicans want a crime bill but it has to be a tough bill. We are not willing to support a bill which diverts billions of dollars of crimefighting resources to special interest spending programs, which expands the rights of criminals, and which drops so many urgently needed crimefighting measures.

Continued obfuscation and denial by the administration in the face of growing opposition to this legislation will not produce a tough crime bill for the American people. Accordingly, I renew my call for a bipartisan effort. If President Clinton wants to pass a crime bill, Republicans will deliver the necessary votes provided our concerns—and they are legitimate concerns—are addressed.

I thank the Chair.

MEASURE PLACED ON THE CALENDAR—S. 2380

The PRESIDENT pro tempore. There are several bills on the calendar, bills and joint resolutions, which are addressed the first time.

The Senate, having adjourned last evening, this day is a new legislative day. Therefore, the bills are eligible to be called up.

The clerk will read the first bill.

The assistant legislative clerk read as follows:

A bill (S. 2380) to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that fans will be able to enjoy the remainder of the baseball season and the playoffs of the world season.

Mr. STEVENS. Mr. President, in order that these bills may go to the calendar, under the rule, I wish to be recorded as objecting to each one of them in behalf of my side of the aisle.

The PRESIDENT pro tempore. Objection to the proceedings having been heard, the bill will go over and will be printed on the general orders calendar. It will be eligible for a motion to proceed on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2381

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

The assistant legislative clerk read as follows:.

A bill (S. 2381) to require the Secretary of Health and Human Services to provide health care fraud and abuse guidance, and for other purposes.

Mr. STEVENS. Mr. President, similar objection, please.

The PRESIDENT pro tempore. Objection having been heard, the bill will go over on the general orders calendar, and will be subject to a callup on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2396

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

The assistant legislative clerk read as follows:

A bill (S. 2396) entitled "The Affordable Health Care Now Act."

Mr. STEVENS. Similar objection, please, Mr. President.

The PRESIDENT pro tempore. The Senator from Alaska objects.

Objection having been heard, the bill will go over on the general orders calendar subject to a callup by a motion on the next legislative day.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I desire to be recognized to make a statement after morning business has expired.

The PRESIDENT pro tempore. The chair thanks the Senator.

TRIBUTE TO ROBERT F. MORAN

Mr. HEFLIN. Mr. President, today, I want to congratulate Mr. Robert F. Moran on the occasion of his retirement after 52 years of service to the Federal Government. In a career of military and civilian service spanning over five decades, Robert has earned a tremendous amount of respect and a reputation as a committed and effective health care administrator.

Integrity and humility have been hallmarks of his career. He began naval service as a hospital corpsman on combat duty during World War II, rising through the ranks to lieutenant commander in the Medical Service Corps.

Continuing to increase his knowledge and expertise in health care management and medicine, Robert joined the staff of the Office of the Attending Physician as its Administrator in 1966. During 28 years of service at the U.S. Capitol, Robert oversaw the medical aspects of the planning, preparation, and execution of Presidential swearing-in ceremonies, State of the Union Addresses, joint and special sessions of Congress, and all aspects of health care delivery for the highest officials of the U.S. Government.

Throughout his career, Robert Moran has always advocated the concepts of professional growth and development, networking, and continuing education. A humble and dedicated man, he has constructed a career of service and accomplishments using the values and principles he brought with him to work each day. His commitment to patients and dedication to duty and service are unsurpassed.

I ask my colleagues to join me in recognizing Robert Moran for his exemplary leadership, selfless dedication, and outstanding service to the U.S. Government and many patients, staff, and tourists at the Capitol.

TRIBUTE TO ALBERT ELVIS WILLIAMS

Mr. HEFLIN. Mr. President, Albert Elvis "Al" Williams, the manager of Listerhill Employees Credit Union in Sheffield, AL, for 22 years, died on August 2. He had served as chairman of the Credit Union National Association as well as holding other national offices.

Al was the first vice president of the World Council of Credit Unions; chairman of the Credit Union National Association's Election and Governance Task Force; vice chairman of its bylaws committee; and a member of the governmental affairs committee.

He was the former chairman of the Alabama Credit Union League; a board member of the Alabama Credit Union Administration; chairman of the Alabama Credit Union Legislative Action Council; and president of the State Credit Union Forum. Al was named Outstanding Alumnus of the Year by the University of North Alabama in 1988.

Al Williams contributed a great deal to his community and State over the course of his career, and he will be sorely missed. I extend my sincerest

condolences to his wife, Charlotte Young Williams, and her entire family in the wake of their painful loss.

MIKE BOX SELECTED TO HEAD NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. HEFLIN. Mr. President, a nominating committee recently tapped Mobile County, AL, legislator Mike Box for the vice presidency and later presidency of the National Conference of State Legislatures. In 1996, Mike will become the first Alabama lawmaker ever named president of the national conference. He is already the first Alabamian ever elected to the conference's prestigious executive committee.

Mike's selection by the nominating committee places him at the heart of the national conference's efforts to improve the country's State legislatures through the exchange of ideas and technological advances.

The National Conference of State Legislatures was formed to share ideas, prevent duplication of efforts, and provide a united front to the Federal Government. It also allows States to develop expertise needed to deal with modern government problems. In this era of shrinking fiscal resources at the national, State, and local levels, the goals supported and fostered by the conference are more important than ever before. I am proud that Alabamian Mike Box has been entrusted with the leadership of this outstanding organization. I commend him and wish him much continued success.

UKRAINIAN INDEPENDENCE

Mr. LEVIN. Mr. President, on August 24, 1991, the Parliament of Ukraine declared Ukraine's independence. This long-awaited triumph was the culmination of the struggle waged by generations of Ukrainians who never lost faith in the ultimate victory of a free and independent Ukraine.

This coming Sunday there will be an observation of the third anniversary of Ukrainian independence celebrated at the Ukrainian Cultural Center in Warren, MI.

Mr. President, the program this Sunday will commemorate the emergence of Ukraine as a free member of the international community of independent nations, to be followed by a cultural program that celebrates the rich traditions of a culture, language, and people who were not crushed by 70 years of Communist oppression.

Ukraine faces many daunting challenges and has encountered many difficulties since the collapse of the Soviet Union. Yet its people and spirit continue to inspire freedom-loving people everywhere.

I join the people of Michigan in commending the people of Ukraine for never losing faith, for shouldering the burdens that come with restructuring a society, and for emerging in victory to bear witness to this third anniversary of the proclamation of Ukrainian independence.

THE REPLACEMENT OF ROBERT FISKE WITH KENNETH STARR AS SPECIAL COUNSEL

Mr. LEAHY. Mr. President, the recent firing of Robert Fiske and his apparent replacement by Kenneth Starr continuous to trouble me. The most recent revelation in this regard is Mr. Starr's reported plan to stay active with his prestigious law firm, to maintain active relationships with his other clients, to retain his seat on his firm's management committee and continue to draw his reported seven-figure salary.

The fact that Mr. Starr is approaching this as a part-time pursuit is among the most troubling aspects of this matter that has dragged on far too long for such little cause—other than the political hay being thatched by the President's political opponents. I think the American people have long since lost interest in events that occurred in Arkansas two decades ago. The only thing that is continuing the investigation is the investigation, itself. The firing of Robert Fiske serves only to delay its conclusion even further.

Now we learn that Mr. Starr, who was anxious to accept this appointment, is proceeding with his vacation plans, has not decided what staff he can retain, has not assembled new staff, has not gotten up to speed, is still reviewing matters, and plans to pursue a leisurely pace being a part-time investigator and full-time partner in a demanding, sophisticated and well-connected law practice. What is going on here?

Some time ago I noted my concern that the firing of Robert Fiske and appointment of Kenneth Starr had done nothing to improve appearances. Some have been concerned from the outset that Mr. Starr might be motivated by personal or political gain. I refuse to subscribe to that view, but did call upon Mr. Starr to provide public reassurances by renouncing any interest in seeking or accepting public office in the future. His having served as a special counsel investigating the President of the United States should not be something that supplements a political résumé and is later used as a basis for obtaining appointed office or even elective office. In other words his personal fortunes in the future ought not be tied in any way to the outcome of the investigation. Otherwise the investigation will not be seen as impartial and its results will not be accepted.

Mr. Starr has ignored suggestions to renounce future political aspirations. Now we find that we do not have to wait until the future to become concerned. We must also be concerned about the present. How is Mr. Starr going to juggle his responsibilities, his personal career interests and the financial interests he shares with his partners? Where is he going to devote his time and attention once he returns to work?

At this point I ask that the August 15 article from the Legal Times entitled "Starr Plans To Stay Active at Kirkland & Ellis" be reprinted in the RECORD.

I also ask that the editorial from today's New York Times entitled "Mr. Starr's Duty To Resign" be reprinted, as well.

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

MR. STARR'S DUTY TO RESIGN

When a special Washington court replaced Robert Fiske with Kenneth Starr as Whitewater independent counsel two weeks ago, the judges specifically cited the need for the appearance, as well as the reality, of impartial justice. But it is now clear that the chairman of that panel, Judge David Sentelle, violated the court's own standard for purity of appearances by meeting with a Senator eager to have the court dump Mr. Fiske as counsel. For that reason, the appointment of Mr. Starr is fatally tainted.

This situation was brought about by Judge Sentelle's flamboyantly bad judgment in meeting with Senator Lauch Faircloth and another Clinton opponent, Senator Jesse Helms. At the time, Judge Sentelle and his two colleagues on the court were considering the appointment of a new prosecutor. Mr. Starr is in no way to blame for this untoward meeting, but he has to recognize that a cloud of political favoritism now hangs over his appointment and will undermine public confidence in it. As a matter of public service and personal honor, he should resign the appointment.

The independent counsel law, recently renewed, is designed to make sure that Federal investigations involving high government officials—in this case President and Mrs. Clinton—are evenhanded and appear so. Yet last month, while the court was studying whether to keep Mr. Fiske or make its own choice, Judge Sentelle lunched with Senator Faircloth, leader of a group pressing the Justice Department to remove Mr. Fiske.

Joining them in the Senate dining room was Senator Helms, Judge Sentelle's political patron and one of the Clintons' most outspoken foes in Congress. They all deny discussing the pending appointment. But the public must not be asked to take such matters on faith, any more than it should have to take on faith that all the suspicious circumstances of Whitewater were innocuous coincidence. A crisis of political confidence cannot be cured by an inquiry that has the look of political collusion.

In regard to public confidence, there is another troubling circumstance. It now emerges that Mr. Starr was working on a legal brief for a conservative women's organization opposing President Clinton in the Paula Jones sexual harassment lawsuit against him. Mr. Starr's legal view, that the President enjoyed no constitutional immunity from the suit for alleged actions when the Governor of Arkansas, had been well known. But by undertaking the friend-of-the-court brief Mr. Starr passed from public

commentator to litigating opponent of the President, a clear conflict with his independent counsel assignment. Though his firm has ended its participation in the Jones case, Mr. Starr's original decision to take it on further blemishes the appearance of impartiality his present assignment requires.

Replacing Mr. Fiske was a reasonable step. His own appearance of impartiality was beclouded by the fact that he had been recruited by Attorney General Janet Reno. Indeed, the court placed such a high value on appearance that it said its only reason for replacing him was the need to provide "an apparent as well as an actual independence on the part of the counsel."

By that standard, the Starr appointment cannot stand, nor should Judge Sentelle participate in the naming of a new counsel. He can step aside and leave the matter to his colleagues. Failing that, the Chief Justice ought to name a new chairman for the panel to replace Judge Sentelle.

At the time of the Starr appointment two weeks ago, this page applauded the court's decision and retains respect for Mr. Starr's service as Solicitor General. But his appointment now looks terrible under the law and the ethical precepts the judges say they recognize. The appearance of impartial justices is not some finicky rule of etiquette but the essence of justice itself. Moreover, President Clinton and others in the Administration deserve a prosecutor who cannot be accused either of favoring them or of being tied too closely to their opponents. Mr. Starr, rightly proud of an honorable career, stands in the way of justice as long as he clings to this unfortunate assignment.

STARR PLANS TO STAY ACTIVE AT KIRKLAND & ELLIS

(By Robert Schmidt)

When Robert Fiske Jr. was tapped in January as Whitewater independent counsel, he immediately severed all ties with his law firm, New York's Davis Polk & Wardwell.

He stopped working for clients, drew out his share of the firm's profits, and ceased participating in firm activities, says firm chairman and managing partner Henry King.

"We never even discussed the issue," says King. "We just though it was appropriate for Bob to take a leave."

Fiske's replacement, Kenneth Starr, and his law firm, Chicago-based Kirkland & Ellis, are playing it quite differently.

Starr not only is maintaining his partnership and his reputed seven-figure salary, but also is planning to keep active client relationships and will even retain his seat on the management committee of the 450-lawyer firm.

"Under the independent-counsel statute, Ken is free to remain a partner of Kirkland & Ellis, and Kirkland & Ellis is free to compensate Ken like any other partner," says Edward Warren, a partner in the firm's D.C. office who is helping Starr manage the transition to independent counsel, a job Starr officially began last week.

THE SAME, BUT DIFFERENT

Starr's arrangement is perfectly legal, and he enjoys freedoms Fiske did not—since Fiske was appointed by Attorney General Janet Reno and considered an executive-branch employee, while Starr, selected under the independent-counsel statute, is not. Further, Starr is following the lead of most previous independent counsel.

Still, some earlier independent counsel were tripped up by perceived conflicts stemming from their private practices.

And Starr's decision to maintain an active law practice is now drawing fire from government-watchdog groups. They argue that the unique circumstances of the Whitewater probe and Starr's background demand a higher standard of conduct.

These advocates say that Starr, whose firm represents numerous corporate clients before the federal government, should avoid even the appearance of conflict—and that means cutting his ties to the firm.

"I don't care what is in the canon of ethics or what the law is, that's not relevant," says Charles Lewis, executive director of the Center for Public Integrity, a non-profit watchdog group.

"To clearly avoid an appearance problem—he only arguably holds the future of the Clinton administration in the palm of his hand—he would at the very least sever his ties and not receive any remuneration from his law firm," Lewis says.

Warren does acknowledge that the firm is still looking into some of the issues surrounding Starr's appointment.

But he says that firm leader met on Aug. 8, and voiced their strong support for Starr's taking on the Whitewater case and his remaining an active partner.

"Kirkland & Ellis certainly wants Ken to remain as active as possible in representing clients," says Warren. "The only question is the time constraints imposed by his new job."

Ironically Starr's decision to keep working at Kirkland & Ellis leaves him vulnerable to criticism similar to that leveled against Fiske.

Last month, conservative activist Floyd Brown and 10 Republican Congress members wrote letters to D.C. Circuit Judge David Sentelle, who heads the three-judge panel that appointed Starr, urging that Fiske not be given the post.

Among other issues, the lawmakers complained that Fiske could not be impartial because his firm represented the international Paper Co., which sold land to the Whitewater development.

Starr's own impartiality has already been questioned in light of his strong Republican background—and his earlier comments that President Bill Clinton should not be able to claim presidential immunity in the sexual-harassment suit brought against the president by Paula Corbin Jones, a former Arkansas state employee.

Starr, a former solicitor general and D.C. Circuit judge, joined Kirkland & Ellis in February 1993. He has litigated on behalf of General Motors, financier Victor Posner, and Anglo Irish Beef Processors International.

Kirland & Ellis longtime clients include General Motors' Abbott Laboratories, the largest producer of baby formula in the United States; the Hughes Aircraft Co.; and the JMB Realty Corp.

None of the critics know of any actual conflicts involving current Kirkland & Ellis clients and the Whitewater probe. They say that since disclosure of clients is not required, however, it's impossible at this point to know what potential conflicts lurk.

Specific conflicts aside, critics contend that Starr's firm or its clients could receive special treatment from the government because of their association with the man running such a politically sensitive and potentially explosive probe.

"Who's to say Starr's name won't be invoked by some junior partner," asks Lewis of the Center for Public Integrity. "No one [in the government] wants to tick off Starr and his firm."

Adds Pamela Gilbert, director of Congress Watch, a non-profit founded by consumer crusader Ralph Nader: "Independent counsel should not be drawing a salary nor should they work at their firm. . . . There should be, at minimum, a temporary severing of ties."

SPECIAL STATUS

Starr is required to fill out a standard financial disclosure statement, says Gary Davis, general counsel at the Office of Government Ethics. But Davis is unsure if Starr's clients will be listed on the form.

If Starr's clients are listed, their names won't become public until he files the form, which he doesn't have to do until May 1995.

Under the independent-counsel law, Starr is not a full-time government employee, so the usual ethical and disclosure requirements for government workers don't all apply. (Such requirements did apply to Fiske, since he was appointed under regulatory authority during a period in which the independent-counsel law had lapsed).

It's that part-time status that allows Starr to remain at his firm. Warren, the Kirkland & Ellis D.C. partner helping Starr, says that the firm "informally consulted with a few [former independent counsel] to be sure of our own ground on this."

Former Independent Counsel Lawrence Walsh, who investigated the Iran-Contra matter, says that he supports Starr's arrangement.

Although Walsh, now of counsel at Oklahoma City's Crowe & Dunlevy, put aside his private practice while independent counsel, he says that the job "contemplates part-time work," by providing per-diem compensation.

"The concept of an independent counsel is a person who is a practicing lawyer who is asked to take on a case for the government," says Walsh, noting that some of his senior staffers, including Dan Webb, a partner at Chicago's Winston & Strawn, worked part time.

The notion of allowing independent counsel to keep their outside work is in part meant to entice the best lawyers to take the job, says Katy Harriger, associate professor of politics at Wake Forest University and author of Independent Justice, a study of the history and legal underpinnings of independent counsel.

On the other hand, potential conflicts loom, and an independent counsel's outside work could take time away from the investigation, thus costing taxpayers more money than necessary, Harriger offers.

"It's always been sort of an unresolved issue," says Harriger, who notes that one former independent counsel, Alexia Morrison, provoked controversy with her outside work.

Lewis and some other activists are also troubled that Starr's law firm, Kirkland & Ellis, does not have to disclose publicly its clientele. It is unclear whether Starr will have to disclose his own client list.

Starr would not comment for this article, and Warren declines to discuss Starr's or the firm's clientele.

Morrison, a partner in D.C.'s Swidler & Berlin, was appointed independent counsel in 1986 to investigate charges that Theodore Olson, when he was assistant attorney general for the Justice Department's Office of Legal Counsel, lied to Congress.

During her investigation, Morrison also represented Carl "Spitz" Channell, a fundraiser for the Nicaraguan Contras who at the time was being probed by Walsh and who eventually pleaded guilty to criminal tax charges.

Despite an outcry from Congress, the Justice Department, and other D.C. lawyers, Morrison remained in her post and kept her client. She did not return calls last week.

That wasn't the first time an independent counsel's private practice caused the counsel some problems.

Morrison had taken over the job as independent counsel from James McKay, who was forced to remove himself because of a conflict. McKay, then a partner at D.C.'s Covington & Burling and now senior counsel, stepped down because one of his partners, Charles Ruff, had done work for the House Judiciary Committee conducting the investigation that prompted the inquiry on Olson.

Harriger notes that independent counsel are checked for conflicts by the secretive three-judge panel that selects them. But after that, the counsel must be trusted to recuse themselves if any conflicts arise.

"If the judges do their job, they can uncover most of the conflicts," says Harriger. "Most of the [independent counsel] did continue to do some work for their firms. I also think they made a conscious effort to remove themselves from any conflicts of interest."

Starr, through a spokesman, declines to say anything about his disclosures to the three-judge panel. The head of the panel, Sentelle, was out of town and did not return phone calls.

It is precisely the lack of public discussion of Starr's law practice that most disturbs his critics.

Says Ellen Miller, director of the Center for Responsive Politics: "I think there could be some serious problems here. The bottom line is that the public is in the dark about this."

Meanwhile, Rep. John Bryant (D-Texas), who heads the House Judiciary subcommittee with jurisdiction over the independent-counsel law, got in his own jab at Starr.

Bryant on Friday introduced a bill requiring the three-judge panel to appoint independent counsel "without any real or apparent personal, financial, or political conflict of interest."

ONE LANDMINE'S LEGACY

Mr. LEAHY. Mr. President, I have spoken about the problem of landmines many times. There are 100 million unexploded landmines in over 60 countries. Each month these weapons, which are often no larger than a can of shoe polish, kill or maim another 1,200 people. In some countries as many as a quarter to a third of the casualties are children, who lose their legs, their arms, parts of their face, or their eyesight. And they are the lucky ones, who are not killed outright, or who do not die from loss of blood.

Landmines do not distinguish between civilians and combatants. They will blow the legs off whoever steps on them, and usually it is a civilian. But we should not forget that thousands and thousands of American soldiers have also been killed and maimed by landmines. At least 7,300 American troops were killed by mines and booby traps in Vietnam, and many thousands more were injured.

One of those injured was Lt. Robert "Mike" Ransom, Jr., of Bronxville, NY, whose family spent their summers in Dorset, VT and whose mother now lives in Williston, VT. On April 22, 1968, Robert was injured by shrapnel from an exploding landmine. He described the accident this way:

* * * one of my men jumped right into a mine. Both his feet were blown off, both legs were torn to shreds; his entire groin area was completely blown away. It was the most horrible sight I've ever seen. Fortunately, he never knew what hit him. I tried to revive him but it was hopeless.

Robert Ransom died a few weeks later. We remember him today as one of the tens of thousands of brave Americans who gave their lives in that tragic war. His mother, Louise Ransom, has spent the last 2½ decades fighting to improve the lives of Vietnam veterans. I have been proud to work with her and her late husband—two of Vermont's most respected citizens.

Mr. President, this is the legacy of landmines. As we try today to stop the carnage landmines cause day after day, we remember Robert Ransom.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about the weather but nobody does anything about it. Many Senators talk a good game when they are back home about bringing Federal deficits and the Federal debt under control, but look how so many of them vote on bloated spending bills that roll through the Senate.

As of Wednesday, August 17, at the close of business, the Federal debt stood—down to the penny—at exactly $4,668,682,813,919.54. This debt, do not forget, was run up by the Congress of the United States. The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government should never be able to spend a dime unless and until it had been authorized and appropriated by the U.S. Congress. The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes they falsely claim that Ronald Reagan ran it up; sometimes they play hit-and-run with George Bush. These buck-passing declarations are false because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big-spenders.

Most people cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

That sort of puts it in perspective, does it not, that Congress has run up a Federal debt totaling 4,668 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stands today at 4 trillion, 668 billion, 682 million, 813 thousand, 919 dollars and 54 cents.

CRIME

Mr. DOLE. Mr. President, during the past 2 days, the distinguished chairman of the Judiciary Committee, Senator BIDEN, has made a number of regrettable comments on this floor that have mischaracterized not only my views, but the views of other Republican Senators. I would like to take a few moments now to set the record straight.

On Tuesday, and again yesterday, Senator BIDEN claimed that the crime bill incorporates the Megan Kanka Law, named after the 7-year-old girl who was raped and strangled to death near her home in Hamilton Township, NJ. The Megan Kanka Law would require State law enforcement agencies to notify the public when a violent sexual predator is living in their neighborhoods. Contrary to Senator BIDEN's assertions, this public-notification provision, modeled after a successful Washington State law, was stripped out of the conference report. It is not part of the crime bill, as Senator BIDEN claims.

The distinguished Senator from Delaware suggested that Senators HATCH, THURMOND, and SIMPSON supported the crime bill's retroactive repeal of mandatory minimum sentences for convicted drug dealers. They did not, and they do not now.

This misguided proposal could result in the early release of 10,000 Federal prisoners, a get-out-of-jail-free card brought to you by the U.S. Congress.

Yesterday, my good friend from Delaware cited a Bureau of Prisons study indicating that only 400 persons would be affected by the retroactive repeal of the mandatory minimums. Of course, Senator BIDEN ignores the study conducted by the Administrative Office of the U.S. Courts, which estimates that as many as 10,000 convicted drug offenders would be eligible for early release. Princeton University professor, John DiIulio, a self-described registered democrat, estimates an even higher number—16,000. And, just yesterday, the National Association of Assistant U.S. Attorneys, which represents nearly 4,000 Federal Career Prosecutors, publicly registered its own opposition to the mandatory minimum reform provision, estimating that it could result in 20,000 petitions for early release.

The distinguished Senator from Delaware suggested that Senators HATCH, THURMOND, SIMPSON, and GRASSLEY voted against truth-in-sentencing during the conference deliberations. In reality, what they voted against was a

watered-down version of a prison and truth-in-sentencing amendment offered by Senator BIDEN. What Senator BIDEN failed to mention is that he and the other Democrat conferees voted against a tougher Republican amendment that would have strengthened the truth-in-sentencing language and provided more funding for prisons.

Senator BIDEN claimed that the crime bill contains mandatory restitution for crime victims. Yes, the Conference report mandates restitution in Federal sex offense cases. Yet, the Nickles proposal mandating restitution to the victims of all violent crimes was dropped in conference. Senator BIDEN should know better.

Senator BIDEN suggested that the crime bill restores Senator SIMPSON's provision requiring swift deportation of criminal aliens. Wrong again. The crime bill does contain some enhanced penalties for criminal aliens who fail to depart, or reenter, our country. But it does not contain Senator SIMPSON's important proposals establishing judicial deportation authority, restricting the defenses to deportation for some criminal aliens, and expediting the deportation process. Nor does it contain the Alien Terrorist Removal Act, which would hasten the departure of vicious terrorists from American soil.

So, Mr. President, it is important for the American people to hear both sides of the story, particularly when one side resorts to exaggerations and factual inaccuracies. I appreciate this opportunity to set the record straight.

STATEMENT ON THE NOMINATION OF HAROLD J. CREEL, JR., TO BE FEDERAL MARITIME COMMISSIONER

Mr. HOLLINGS. Mr. President, I am pleased that the Senate has approved Harold J. Creel to be a Member of the Federal Maritime Commission [FMC]. I have known Hal for nearly 5 years, and I assure my colleagues that he will bring significant experience and enthusiasm to this important position.

Hal has an impressive background. The FMC will be gaining the services of an individual with exceptional understanding of this nation's maritime industry. Hal, a South Carolina native, is currently serving as senior counsel to the Merchant Marine Subcommittee of the Senate Committee on Commerce, Science, and Transportation. Prior to his service on the committee, he served for 6 years as attorney/adviser for the National Oceanic and Atmospheric Administration [NOAA] of the Department of Commerce, 1983–89. From 1982 to 1983, Hal was an associate attorney with Courtenay, Forstall, Grace, and Hebert in New Orleans.

Mr. Creel received a bachelor's degree in political science from Wofford College in Spartanburg, SC, in 1979 and a law degree from the University of South Carolina Law School, (J.D. 1982).

I believe that the President has made a very wise choice in nominating Hal Creel for this position. Hal is capable, intelligent, easy to work with, and a person of integrity. He knows the Hill, maritime issues, and the regulatory process well. Hal has rendered invaluable service to me and the Commerce Committee, and I know he will do the same for the FMC. He is well-qualified and well-suited for his new position and he will do an outstanding job.

The FMC's gain is our loss. However, I take comfort in the fact that I, and the rest of my colleagues, will continue our relationship with Hal, although in a different capacity.

I thank my colleagues for their support for Hal Creel's nomination.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. There being no further morning business, morning business is closed.

HEALTH SECURITY ACT

The PRESIDENT pro tempore. The Senator from Alaska will be recognized following the reading of the bill, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2351) to achieve universal health coverage, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell amendment No. 2560, in the nature of a substitute.

Daschle amendment No. 2564 (to amendment No. 2560), to improve the access of individuals in rural areas to quality health care.

The PRESIDENT pro tempore. The pending business is S. 2351. The pending question is on amendment No. 2564, which amendment is open to amendment in the second degree. Of course, the underlying bill is open to amendment in two degrees.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, is there a time agreement on this amendment?

The PRESIDENT pro tempore. There is not.

Mr. STEVENS. Thank you.

Mr. President, I have taken some time to review the Mitchell proposal for health care reform, and have concluded that it comes up short when weighed against the need of my Alaska constituents.

Alaskans tell me to take care of the people who have fallen through the cracks, and for the rest, to find ways to hold down price increases for them.

I do not, however, want to speak about only what I am opposed to. I intend to discuss what I am in favor of in terms of health care reform, also.

Significant progress could be made on health care with reform measures on which most of us already agree. We actually agree more than we disagree. Many of us want to act now on the best proposals to cover the uninsured. Funding for those proposals, I believe, is the major problem.

Bills have been introduced which promise expanded benefits and greater Federal taxpayer support. But there is no way I feel those promises can become a reality without destroying the taxpayers who support the system now.

One of my greatest concerns is for the small business community. In our State, small business is the major part of our economy. I think that is true throughout our Nation. Small businesses are really where the jobs are. In 1990, there were 12,843 businesses in Alaska. 12,433 of those were small businesses; 88 percent of those small businesses in Alaska had fewer than 20 employees.

I believe it is unfair to expect these small business men and women who are struggling to survive now to bear the increased taxes and costs of this bill. There are few opportunities for today's young Alaskans to carve out a homestead from the wilderness. There are fewer and fewer areas of employment in our declining economy which those young Alaskans can hope to enter.

In our State, the average age is 28.9, Mr. President. If these young people stay in our State, they take marginal and seasonal jobs and cannot pay ever-increasing taxes to support expanded benefits for the population as a whole and for those who are unemployed.

Alaska is a primarily resource-driven State. This administration's policies, unfortunately, primarily in the Interior Department and the Forest Service, have limited our State's responses to unemployment for our own citizens. In most areas, Alaska will have great difficulty in maintaining current services, such as schools, child protection, and environmental protection, as our resource income declines. We continue to see fishing, timber, tourism, and oil as the backbone of our economy—some mining—but there are consistent, difficult problems in covering those employed in those areas with health insurance.

I have talked to a great number of individuals, Alaskans and non-Alaskans, about the problems, and I find most people want for themselves and their employees the best of what our health system can bring now. They want to take care of themselves and their families, obviously.

So that Alaskans and all Americans can achieve that goal, I believe that any health care bill we pass must include the elements that we have already agreed to, basically: Every American should be able to obtain health insurance even if he or she has a preexisting medical condition. If a person changes jobs, that person should be able to transfer his or her medical

insurance with them to the next job and should not lose insurance if they do not get a job immediately. Illness or loss of a job should not be a reason for canceling insurance. Every American should be able to choose his or her doctor or hospital, to the greatest extent possible. People, even in remote villages of my State, like Holikachuk or Shishmaref, should have access to both a doctor and a hospital, even if there are no doctors or hospitals in those villages.

Mr. President, I will show to the Senate now an overlay of my State on the Nation. It shows the locations of the villages and highways in Alaska. You will note that the highways are predominantly in the south central area and connect to Canada. There are no highways or roads anywhere in the rest of the State that connect the villages. As I have mentioned, in the villages out on the west coast, residents can only commute by air into the medical centers of our State. I am concerned that the Mitchell bill does not adequately address the needs of Alaskans—the small business men and women and their employees. These include Natives and rural residents. They have to fly hundreds and even thousands of miles across that enormous State of ours to get the medical attention.

Mr. President, my colleagues have heard me speak in the past about how Alaska is unique, and I think it is, and that different solutions are necessary for our problems, and that our problems probably are not shared anywhere else in the United States. I tried to discuss this with Mrs. Clinton when she came to visit the Republicans on the issue of health care, and I indicated to her that if her bill would address health care access in Alaska, real health care access, I would support her bill. Her answer made it clear to me that she did not understand what I meant. I am sorry that is the case. But she responded to me that to deal with our transportation problems in Alaska—as I say, they are critical to real health care access in my State—we should raise the premiums.

Alaska, unlike many other rural areas in the country, is a high-cost area. This is largely because of transportation, as I earlier mentioned, to these very remote areas in our State. We must transport every commodity by air to these rural areas. Even bricks and mortar and hay for horses are transported to those areas by air. And they are transported to the remote sites for the construction of housing units for the Native people in those areas. It is all done by air. We must use aircraft to deliver the bulk U.S. mail, mail that is trucked to the communities of even the rural States in the south 48.

To serve our Indian Aleut and Eskimo villages, we must import doctors and nurses from residential centers like Anchorage and Fairbanks, again by air. And they must take all of their equipment and their belongings with them. And when their temporary duties are over, we transport them back, because they are unable to have the facilities in each of these villages to deal with the people who live there and, of course, they must go back to their families who are either in the medical centers of Alaska, or somewhere on the west coast.

We have no medical or dental schools in Alaska. We do not have academic health centers, and we have difficulty in attracting and retaining specialists. For that reason, Alaska cannot support health care reform approaches which prevent the training of additional specialists in areas that we need very critically—trauma surgeons, for instance, or specialists who will work with developmental disabilities. We are especially interested in expansion of training opportunities for nurse practitioners and physician assistants. We need them very much in our rural communities. Their importance to rural health care has been proven over and over again.

Labor and supply costs are high in our State. It is not surprising that we are unable to attract providers of any kind to stay in these communities of 50 to 100, or even 500, particularly, if those communities do not have housing, running water, flush toilets, and the normal amenities of life in America.

Hard as it may be to believe, more than 200 of our rural communities lack water and sewer facilities—adequate ones, that is.

We have now developed an approach that generally works for Alaska and which the General Accounting Office, in 1993, acclaimed as "a creative approach for Alaska." The distinguished occupant of the chair has helped me frame that approach over the years, and I am proud of it. It is the Community Health Aide Program. We call that the CHAP Program. CHAP employs residents of Native villages. Some of them may have only a seventh- or eighth-grade education.

After a few weeks of training, the community health aides serve, in most instances, as the sole medical provider in their community, and those funds available to them are provided through the subcommittee that the distinguished occupant of the chair has chaired in the past and still chairs and the Appropriations Committee which he chairs.

These community health aides, through the Indian Health Service, are provided a detailed manual. They are given a telephone connection to nurses or nurse practitioners or doctors or physician assistants who are in the nearest hub, the nearest center, and that is good if the weather does not knock the power out, that gives them both the telephone access and ability to operate their clinics.

They cope with all the tragedy that these rural communities experience—injuries and death due to alcohol abuse, chronic diseases such as tuberculosis and diabetes; high rates of lung and cervical cancer; self-inflicted ailments due to tobacco, or misuse of alcohol or inhalants; and drownings and hyperthermia and fetal alcohol syndrome and disease. Burns are a constant problem because many of these communities do not have adequate fire protection. A community health aide in one of those villages deals with that full spectrum of the health care delivery.

While the Mitchell bill includes many of the same rural provisions which the Dole bill has, it does not include those provisions that are critical to Alaska.

Those seek to address the critical issue of transportation—and real access to health care—in a place such as our State.

Many primarily rural States will have the problem that they are low-cost States and expansion of new or even existing technology will be limited by this bill. That is also a serious problem for Alaska, even though we are a high-cost State. Many areas of Alaska are now just getting basic technology. Some have just gotten access to an x-ray machine. Some of our health facilities are housed in old tuberculosis sanitariums built in the fifties.

The Mitchell bill, I feel, will stop the progress of medical technology in my State and force us into yesterday's medicine. It is unlikely that any rural village will ever see a CAT scan machine or MRI machine, equipment we take for granted now in urban areas like Washington, DC, or even Anchorage, AK. I question under the Mitchell bill whether Alaska will ever receive the technology it will need and I believe those rural citizens deserve.

I recall many years ago when the senior Senator from Massachusetts asked us to consider legislation on the subject of CAT scanners. My concern then was whether Alaska would get a CAT scan, or if they would be rationed on the basis of population. That was the suggestion early in that debate.

When I survived a plane crash in 1978, it was a CAT scan that told physicians then that I did not need brain surgery, an operation I surely would have had if the CAT scan had been rationed by population.

We cannot have technology rationed on the basis of population. Rationing of care continues to be my recurrent nightmare after my own experience. Our population between 570,000 and 580,000 approaches one individual per square mile. Our land area is 586,412 square miles, 365 million acres. I show

that to the Senate, that vast area, how it spreads from coast to coast and from north to south as far as the 48 States' circumference is concerned.

The implication of this legislation before us is that resources would be distributed on a population basis. We must examine how we approach the distribution of resources that provide medical technology and innovation, and that is particularly true in the area of telemedicine. We must examine how we treat States and communities with academic health centers and those who have none and ask, for those who have none how we can get the technology to them. The wrong approach to health care reform will be the difference between access to new standard therapy and diagnostic procedures and the lack of access for rural and less populated areas for a long time to come.

I ask the Senate if we really have a commitment to medical research and infrastructure development in this bill. The Indian Health Service proposals in the Mitchell bill I believe are not what the Indian community had hoped for. They are not what was recommended by the Committee on Indian Affairs.

My concern with the initial proposals concerning the Indian programs offered by the administration was that those programs could not be supported by the resources that have been available in the past under the Interior appropriations bill. In particular, I was advised that the Federal Indian Health Insurance Fund to which third party insurance dollars and appropriated funds would be contributed was not adequate to implement the policies we want to provide for Native Americans, but that still remains in the majority leader's bill.

It is my belief that we cannot raise expectations beyond what we can afford to fulfill, and all too often those expectations are raised in rural, less populated areas and left unfunded because Federal health dollars flow disproportionately to the heavily populated areas.

I believe we must keep in place the system which works and which has been a safety net for American Indians and Alaska Natives on reservations and in villages in my State and keep it in place until we have a proven new system that also works.

I have compassion for the Indians in urban areas. In the past, they have not received medical resources because of our historic distribution system based upon reservations. But we cannot expand our resources into new missions and new places if we cannot keep the commitments we have already made. We have already promised to provide basic medical service, including the construction and renovation of critical medical facilities in North American Indian communities, and in Native American communities.

Alaskans have consistently supported two areas of what we call supplemental benefits which we have been unable to provide as quickly as we would like. One of those areas is patient travel, which I mentioned before. The other is sanitation.

In Alaska, travel to a medical facility may cost more than the care that one goes to the medical facility to get. For many Alaska communities, the Indian Health Service in Alaska used to pay emergency travel expenses to a health facility, often to an Indian Health Service facility. But the IHS only provides one-way fares. If a village wanted to see its family member come back to the community after discharge from the hospital, residents had to raise funds to return the patient home. We still have that problem. It is made more acute when there is an emergency transfer of a patient from the village to the hub community where a regional hospital exists. Doctors in that hospital decide whether a more sophisticated medical approach is needed. Travel then becomes necessary from that regional hospital to the flagship of the Indian Health Service in Anchorage, the Alaska Native Medical Center.

Patient travel expenses come from contract care funds in the Indian Health Service. Using those funds for travel takes money away from patient care, and that is not an answer to access. Diminishing the amount of patient care funds in order to provide patient access is not an answer for health care in rural Alaska.

Alaska's problem with sanitation is an issue that a number of my colleagues here in the Senate are aware of and have worked on with me through work on the appropriations subcommittees or the full committee or through service on the Indian Affairs Committee or the relevant authorizing committees in dealing with sanitation problems.

The Indian Health Service has told us that providing clean water and sanitation facilities is the most significant and necessary public health expenditure in Alaska. Health care access requires a health clinic have clean water and sanitation facilities. To expect those clinics to function without these basics makes health care reform meaningless in rural Alaskan communities.

So I ask the Senate to refuse to eliminate the Federal systems which are the safety net in my State until we know whether these reform proposals for health care work.

Throughout this debate on health care, we have heard a lot of laudatory comments about the Federal Employees Health Benefits Program and deservedly so. I think I have served on the committee having jurisdiction over the Federal Employees Health Benefits Program longer than any other Member of the Senate. The FEHB Program is part of an American health care system that works. It provides affordable quality health care to over 9 million Federal employees, retirees, and their dependents.

The FEHB Program, this Federal employee program for health care, is the largest medical plan in the United States.

It is not perfect. OPM works continually with carriers and participants to improve this system and the benefits offered through its customer satisfaction service, annual call letters, and its oversight. But the program has had more than its share of successes and deserves to be recognized as a basic success in health care insurance.

The FEHB Program has been successful in holding down costs—over the last 12 years, the program's average premium cost per person rose approximately 3.5 percent less than private sector premiums for large businesses. The system holds down growth in costs by forcing insurers to compete for customers by providing the best service at the lowest premiums.

The program provides flexibility through its annual open season, which allows individuals and families to change their policy to adjust to changing circumstances. And, the FEHB Program gives its participants the ability to choose the health care plan which is offered that is best for them.

Every enrollee has a choice among many health plans with varying levels of benefits and premiums. It has benefits that I believe we all would agree should be included in health care reform.

For example, FEHB includes the ability with copayment or deductibles, to choose one's own physician; it basically insures everyone, regardless of preexisting condition; and there is no cancellation of FEHB insurance for catastrophic illness.

Rural areas, particularly like Alaska, need the flexibility of health plans which provide options to meet individual and family needs.

Unfortunately, instead of serving as a model for reform, the FEHB plan would be drastically changed by the Mitchell plan.

The Mitchell bill essentially attempts to turn the program into an almost monolithic single-payer plan, to the detriment of Federal employees, retirees, and dependents.

Ultimately, it challenges the very viability of the plan itself. Rather than treating the plan, as I believe it should be, as a large employer plan, and preserving it as a model to judge the effectiveness of new plans for employees, retirees, and dependents, the debate has now turned to how to open up FEHB. I do believe that people throughout the United States have told us they want a medical reform bill that gives every American a right to get a plan as good as FEHB. But I do not think I have

heard from anyone that we ought to destroy FEHB in order to try to accomplish that.

Instead of a straightforward repeal of the program, as was proposed in President Clinton's health care reform bill, the Mitchell bill would repeal the FEHB Program by overwhelming it.

The Mitchell bill would open up the FEHB Program to welfare recipients, employers with fewer than 500 employees, the self-employed, and the unemployed. To maintain contact with those people, Mr. President, who are not Federal employees, throughout this country would require a bureaucracy almost as large as the Federal Government itself.

The reason that the Federal Employees Health Benefits Program works is the Federal Government is a very large employer. The Mitchell bill will not treat the Federal Government as a large employer anymore. It seeks to treat the Federal Employees Health Benefits Program as a series of very small employers throughout the United States.

Initially under the Mitchell plan, Federal employees and non-Federal participants would be in separate risk pools, which is intended, apparently, to protect Federal employees from sharp increases in premiums. But the pools will soon be merged, creating a massive new system.

I want to read what the Mitchell bill specifically states so there is no disagreement about it. The Mitchell bill would eliminate this model plan in 10 years. It says specifically:

> The Office of Personnel Management shall implement rules to blend after January 1, 2005, the premiums for FEHB plans offered through purchasing cooperatives to Federal employees and community-rated individuals in each community-rated area.

What that means is, after 2005, the FEHB plan that is offered through these purchasing cooperatives and the FEHB plan offered by the Federal Government as employer will merge.

The Mitchell bill eliminates the model FEHB plan in 10 years.

The merging of the risk pools will expose Federal employees to sharp increases in premiums. This problem is made even more difficult by the fact that there is no estimate of the number, age, or medical condition of people who may opt to join the plan. That, of course, will depend in large part on the premiums for the non-Federal entrants, which will not be set until January 1997, although they are free to enter the pools immediately.

However, we can make some estimates of the number of entrants by using Medicaid figures.

The Medicaid population alone this year is approximately 34.6 million people. But not all Medicaid recipients would turn to the FEHB Program. Four million Medicaid recipients who are over the age of 65 also participate in Medicare and use Medicaid only as a supplement.

Another 5.5 million Medicaid recipients are blind or disabled, 3.7 million of them receive SSI benefits and would be excluded from the FEHB Program by the Mitchell bill. That is probably because the risk that would be added to the pool by that high-cost group would dramatically drive up health care costs and premiums for both the employee and the employer.

Let me explain that that is a vital concern to us also, because when you look at the children with fetal alcohol syndrome in the villages, we are talking about some of the people who would be excluded from the benefits of this plan. That leaves almost 27 million people who could potentially join the FEHB Program from Medicaid alone. And that number does not include individuals who are uninsured, self-employed, or whose employers choose to participate in this system.

The potential for increase in the number of people in the FEHB Program is four to five times the size of FEHB now and, as I said, that is the largest system in the United States today.

In addition to the problems of the sheer size of the system the Mitchell plan would create, the plan has the potential to wreak havoc with the premiums of Federal employees.

As I said, the FEHB Program is currently experience-rated, with premium rates based on the entire group. It is not a community-rated system.

Under the Mitchell plan, the move to community rating will have a devastating impact on Federal employees in high cost areas, such as Alaska. And it will have an increasingly devastating impact on the Federal taxpayer who pays 72 percent of the cost of that plan.

The premiums of most FEHB fee-for-service plans, such as the Blue Cross & Blue Shield plan, which covers 40 percent of all FEHB participants, are not currently affected by local costs.

But beginning in 2005, Federal employees and retirees will pay the same community-rated premiums as non-Federal employees.

That means that Federal employees working in Alaska will pay higher premiums than Federal employees with the exact same health care plan living in low-cost areas in the south 48. The costs to the taxpayers, as their employer, will similarly go up. As I said, 72 percent of those increased costs will be paid by the taxpayers.

Look at the average cost of the various health care services around the country. They demonstrate the impact that community rating will have on the Federal employees health benefits system, particularly the employees.

According to the Health Insurance Association of America Source Book on Insurance Data, the average cost of a semiprivate hospital room in the country costs $297 in 1990, with cost varying from $215 in South Carolina to $407 in Alaska and $456 in Connecticut. Now that is 1990.

In 1990, the average cost for an inpatient surgical procedure was $980, but it rose as high as $1,348 in Alaska and $1,400 in Maryland.

Under the Mitchell plan, the disparity among Federal employees' premiums increase when risk is added to the pool through the inclusion of millions of potentially high cost, non-Federal participants and the costs to the taxpayers for the FEHB plan will similarly go up dramatically.

I do not know why we cannot recognize that the Federal Government is a major employer and, as such, the taxpayers who support that system should have the advantages that any other major employer should have.

At the same time, premium costs will vary substantially from State to State and the pool then becomes subject to community rating.

Now, another problem in the Mitchell bill arises from the use of the phantom or "Big Six" formula. And I think this is one of the most difficult things for some people to really dig into.

By law, OPM must now use a formula based on what is known as the Big Six plans' premiums to set the Government's contribution—the taxpayer's contribution—for employee health insurance.

The Government contribution to each enrollee's premium is an amount equal to 60 percent of the average of the high option premiums for the Big Six Plans.

The Big Six average is currently calculated using the premiums for the six plans.

The first five plans of the Big Six in FEHB are: the Blue Cross/Blue Shield high option, two employee organization plans—Government Employees Health Association [GEHA] and mail handlers—and two HMO's with the highest number of enrollees—the Kaiser Health Plan of Northern California and the Kaiser Health Plan of Southern California.

The sixth part of the Big Six formula is a fictitious premium based on Aetna's 1989 premium updated by the annual change in the premiums of the five remaining Big Six plans.

Aetna withdrew from FEHB as an underwriter in 1989. Since Aetna's withdrawal, this mathematical formula replaced Aetna in the 1990 through 1998 calculations.

The Big Six formula was recently reauthorized through 1998, primarily to get the plans through health care reform with the assumption that this would be reevaluated.

But the Big Six formula would continue to be used to set premiums for Federal enrollees under the Mitchell bill.

It would continue the Big Six fictitious formula to establish the hypothetical premiums which are used to

calculate the Federal Government's employer contribution to FEHB plans.

I am told there is real concern among the carriers that the Big Six formula may not be workable under the Mitchell plan, particularly with a standardized benefit plan.

Remember, there are a series of options now under FEHB; there is no standardized plan. And the merging of risk pools—there are a series of pools to be created by the Mitchell bill, some of them Federal employees, some of those who enter by being employees who select the plan, some unemployed, and others who can come into this FEHB Program now. And the blending of those premiums will take place in 2005.

At that time there is no escaping the conclusion the cost to the taxpayers will go up, the cost to the Federal employees will go up, and there will be no real benefit to the others in the process. They belong primarily in the pools of their own communities. They would benefit more in the long run by being in those communities.

The FEHB Program in this bill will be unworkable, as with many other provisions in the Mitchell bill, the provisions mandate change now, but will determine the details later.

As the saying goes: "The devil is in the details." These are issues that cannot wait.

We ought to know the details now. We ought to know how our premiums are going to be figured for the FEHB entrants who come in from the public at large into this large pool who are not employees of the Federal taxpayer.

The Mitchell bill will place more and more individuals in the FEHB plans.

My major concern is that carriers will drop out of the old FEHB plan, rather than be forced to accept potentially high-cost, community rated applicants in the new Mitchell pools.

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

Mr. STEVENS. I will yield when I finish my statement.

FEHB under the Mitchell bill, will be an uncertain program which will be destabilized when the separate pools are merged in 2005. Carriers will have no incentive to participate in an uncertain plan which has no future. At most, FEHB has a maximum 10-year shelf life under the Mitchell bill.

I understand that some concern has been expressed in the past that the modest and incremental expansion of the FEHB Program to employees of certain small businesses included in the Dole bill might destabilize the FEHB plan premiums.

Think of that, the Dole bill, which has a modest access to the FEHB plan for the employees of some small businesses, has been criticized already. The enormous, enormous expansion in the Mitchell bill has really not been examined at all.

The Dole FEHB Program provisions, to me, are far preferable to the sweeping and dramatic changes in the Mitchell plan, which I believe would ultimately lead to the collapse of the FEHB Program. It certainly leads to the demise of it and a future for FEHB that is uncertain when these pools are merged in 1995.

Another issue that concerns me deeply is whether cost containment and managed care will ever be viable in our State of Alaska because of Alaska's geographic uniqueness.

In addition to the access and cost containment problems I have mentioned, I want to discuss some of the other concerns that I have with the Mitchell bill.

Specifically, the Government would set price controls which will unfairly burden Alaskans. Under the plan, health insurance premiums growing faster than the reference premium would be taxed at 25 percent.

The Congressional Budget Office has stated that "few, if any, areas would meet that test more than the first year or two, because the reference premiums would be constrained to grow far more slowly than the expected growth of health insurance premiums." This is from page 12 of the CBO's preliminary analysis of Senator MITCHELL's health proposal.

This means that some Alaskans and other Americans will be taxed at 25 percent on some portion of their health care package, because their premiums will exceed the premium that the Mitchell bill determines is reasonable for the country as a whole.

Senator MITCHELL's health plan also includes an employer mandate that will drive jobs out of Alaska and other States that fall below 95 percent coverage. This is on page 14 of the CBO report. Employers would be required to pick up half the cost of employee health insurance plans. These are the small employers.

The Congressional Budget Office reported that the cost of this mandate would drive businesses out of States which have the mandate into States that do not have the mandate.

The mandate is triggered by the failure to achieve 95 percent coverage and by definition we will never exceed 95 percent because of the geographic area that we have to cover in the State.

Alaska, with approximately 13,000 businesses, many low-income families, and high uninsured rates, is one of the States which will likely fall below the 95-percent coverage target. Alaska businesses will emigrate to States without the mandate.

With unemployment rates higher than 20 percent in some remote villages, Alaska cannot afford to lose any small businesses and the jobs they provide.

Although estimates are not yet available for the Mitchell bill, the National Federation for Independent Business estimates that 6,532 jobs would be lost in Alaska in the Clinton health plan were adopted. Another 38,297 workers would have reduced wages and/or benefits.

Under the Dole plan individuals would not lose their jobs, income, or benefits, because the Dole plan does not impose a mandate on businesses or individuals.

The Mitchell plan also discriminates against self-employed individuals by allowing only a 50-percent deduction for health insurance premiums. In 1992, there were approximately 27,000 self-employed workers in Alaska.

The fishing industry, our largest employer, includes thousands of self-employed fishermen who would lose out under the Mitchell bill.

Alaskans and all Americans will be hit hard by the 17 new taxes or tax increases included in the Mitchell plan.

Every middle-income family will have to pay $500 in new taxes. Based on three taxes alone: the 1.75 percent tax on all health insurance premiums; the 25 percent excise tax on excess premiums; and the State 1 percent tax on premiums to cover State administrative costs.

This does not even include the other tax increases such as tobacco, hollow point bullets, and Medicare that are included in the bill. In contrast, the Dole bill includes no new taxes or tax increases.

Over the past few days and weeks the Senate has spent a great deal of time discussing the merits and shortcomings of both the Mitchell and Dole plans.

I have made a careful analysis of the provisions contained in both bills and based on the health care needs of Alaskans, I have concluded that the Dole plan goes further in meeting those needs in Alaska than does the Mitchell bill.

Let me, in closing, comment specifically on the pending health care amendments. I am disappointed that the Members from the other side of the aisle, members of the Senate Rural Health Caucus, did not work with those of us on this side of the aisle in the caucus on a bipartisan package for these amendments. We have had a rural health care caucus on a bipartisan basis. I appreciate the fact that the Democratic group saw fit to adopt a provision from the Dole plan that they added to their package. The States of Alaska, Montana, and Wyoming I think ought to be described as frontier rather than rural; although rural can be in any area in the country and our needs sometimes coincide with the Midwest and rural States. But sometimes they are vastly different.

We have not yet suggested convening a frontier caucus. I do not know whether there is a phone booth big enough for us. But I suggest the Western States group in which both parties are

represented and the health care caucus in which both parties are represented could have done a better job to present a bipartisan approach to rural health care amendments.

In particular, Alaska's issues differ from those of nearly every other rural State because of the high-cost environment. The rural caucus is dealing with a low-cost environment. We in Alaska are dealing with problems and costs associated with geography and the related transportation issues.

As I said before, we are a young population. The average age is 28.9. The typical rural health economy that exists relies heavily on Medicare. As a result, those of us from Alaska have supported Medicare provisions for rural areas which did not as directly benefit our State of Alaska because we recognized there is diversity in the rural areas and we look to this core group of the Senate Rural Health Caucus to support Alaska when it has specific provisions when they are probably not relevant to other rural States.

As I say, many of these provisions in this package—and I generally tend to support the package—we recognize they are needed for the States that are represented by the Senators who have presented these provisions.

Let me point out that the Dole bill recognized that Medicaid provisions for Alaska were 25 percent higher. The Dole bill had specific provisions allowing Alaskans to require insurers marketing in Alaska to include emergency and nonemergency, medically necessary transportation to health care and needed diagnostic procedures in any policy marketed in the State. That would be up to the State if it wished to do so.

We also included in the Dole bill rural infrastructure and development formulas which recognize Alaska's higher costs and extreme distribution problems and that the land base is a factor because of transportation.

I do hope, as we review this rural health care package, that there will be consideration given, as the final bills are put together, to the unique needs of our State. Our people have unique needs that need to be met, and I hope to see they are met.

If the Senator from Massachusetts has a question for me, I will be pleased to respond.

Mr. KENNEDY. Mr. President, I thank the Senator from Alaska. As I was listening to the Senator from Alaska, I gather then since we, as Members of Congress, have the Federal employees health insurance program, that under the Senator's position you are not prepared to include the American people in the same kind of program that we have and, as the majority leader has suggested, will be effectively open immediately to all Americans, and then with the blending of the programs, all Americans will have the same plan available to them as we have. Am I right?

I have difficulty understanding why. If we do nothing at all, we are still going to have ours as Members of Congress and the Senate. There has not been a Member of this body who has been willing to give up all of their Federal employee health benefits. That is the fact of it.

I am just wondering why the Senator from Alaska is reluctant to include all Americans into the same kind of plan, to have what we have.

Mr. STEVENS. Mr. President, if the Senator will allow me to answer, apparently the Senator from Massachusetts did not hear me.

Mr. KENNEDY. I heard you.

Mr. STEVENS. I said I have no problem at all creating a plan similar to FEHB for all Americans. You are saying "the same kind of plan." The trouble with the Mitchell bill is it puts them in the same plan.

Mr. KENNEDY. That is exactly——

Mr. STEVENS. I still have the floor, and I will answer the Senator. The difference is that the model, which is a good model and which could be used for a plan for all Americans, is to be blended in with a plan that is uncertain, that has no possibility of any kind of rating, and which is going to impose risk; that we feel the carriers will leave the old plan, the FEHB plan because of the uncertainty of all of these new entrants into it.

I encourage the Senator to look at the FEHB plan as a model—and I urged that. As a matter of fact, the Heritage Foundation, to its great credit, first proposed to create a plan for all America based upon FEHBP. That system is a viable system. It is possible. But we have ratings, we have experience in the FEHB plan. We ought to use it as a yardstick to measure any plan.

Incidentally, the Congress does not have a separate plan. I keep hearing that all over. The Federal employees have a plan, and we opted to become part of it. No Member is forced to join it. It is all voluntary. And some of us do obtain our insurance through one of the health plans. I use the Treasury one. I do not know what anyone else uses, but I chose to use the Treasury one.

There are a series of options, as the Senator from Massachusetts knows, and those options are unique. Under the Mitchell proposal, there will be one option. There will be the basic plan for the United States and the FEHB Program. That is no way to compare—and we do not want to transition the FEHB plan, which has a series of options, into a single monolithic, single-payer plan. That is where we go in 2005. That is what the instructions say. Blend them all in 2005.

Mr. KENNEDY. Give exactly to the American people what we have.

Mr. STEVENS. No, no, it will not.

Mr. KENNEDY. That is what that says.

Mr. STEVENS. It is exactly what the Mitchell plan will give the American people. There is a difference.

Mr. KENNEDY. That is exactly what it said, Senator. You said it very eloquently, did you not——

The PRESIDENT pro tempore. The Senator from Alaska has the floor.

Mr. STEVENS. I will be glad to yield for a question.

The PRESIDENT pro tempore. The Senators will address other Senators in the third person, not in the second person.

Mr. KENNEDY. Did you not say after the transition period, in 7 years, that effectively the Members of the U.S. Congress and Senate, who are members of the Federal employees plan which include 10 million of our fellow citizens, that they would be effectively in the same plan that would be offered under the Mitchell plan?

Mr. STEVENS. Mr. President, I say again, at 2005, there will be one single, monolithic plan under the FEHB label. It will not be the FEHB plan. It will be a community-rated system, not an experience-rated system. It will be a plan with one basic medical plan and penalties if you do not take that plan, as compared to our plan now which has a series of options offered by a series of carriers, many of whom I think will leave us as soon as they discover that in 2005 the Mitchell bill will merge everyone who is not under a large employer plan into the single, monolithic plan under FEHB.

There will be community ratings, there will be different premiums, there will be different premiums for an employee that works for the Forest Service in Alaska as compared to one in South Carolina. There will even be a different payment for employees of our offices, some who work here in Washington and some who work in Alaska. There will be a different payment for the Federal Government in Fairbanks as compared to Anchorage as compared to Washington.

The impact of the Mitchell changes on the FEHB plan will be to create a single, monolithic, single-payer plan using a single benefit package, a national standard benefit package which we do not want.

We want the options under the Federal Employees Health Benefits Program. I would like to see the Nation have a chance to have options under a plan similar to the one we have. That will take some doing. It will take some time to do that. It will take some infrastructure to support bringing all the small businesses in.

Can OPM, with its current employees, support a plan that would cover, instead of 9 to 10 million, 50 to 60 million people, people who have no employment connection with the U.S. Government? They are not employees,

they are not all going to the office everyday, they are not people who have an administrative contact.

We will have to have an enormous cost to support that program. It is wrong to do that. It is better to have the people who do not have insurance be able to get insurance as people do under the major plans, who work for major employers out there in the areas in which they work, instead of having us change our experienced national system into a community-rated system where every Federal employee must take the plan that exists in his or her community and the Federal employees will pay into that plan and the employer, the Federal Government, the taxpayers will support different premium costs all over the country. This is wrong.

I do not know when the leaders are going to wake up. As I said, to me this means the Federal Employee Health Benefits Program has a 10-year shelf life. That is, in 10 years, the plan, as we know it, will go. It will no longer be experience rated. It will no longer have a series of options. It will no longer have an employee option to go in and out of plans without impunity, just entirely voluntary. You can come and go.

Under this system, when you come into it, you will take the national benefit plan, the one that is outlined in the Mitchell bill, by 2005. Federal employees will have that. It is not that the American public will have what we have now, we will have what they have then, if it works, and God hope it works. We know this one works.

I do not want to forecast the demise of FEHB now. I do not want to forecast the demise of the Indian Health Service now. I think the Federal systems that are working should be preserved until this experiment is proven. This is an experiment. This is an experiment with one-seventh of the economy of the United States. And it is wrong for us to tell the American people, as so many people have, "We're going to give you what we have." Wrong. We are going to change what we have in the hopes that they might have something better than what they have.

I say they will have a better system if we use the FEHB as a model, if we create a system under the Mitchell bill that will create a plan like the FEHB and try to offer some options.

But the bill itself does not do that, I say to the Senator from Massachusetts. The bill does not do that. It does not envision that those people who come into the FEHB pools will have available a series of options similar to what we have under FEHB. They will have the standard benefit option, and if they do not have that, they are going to be taxed more. If they have more, they will be taxed more—by definition, they cannot get less.

But that means our Federal employees, when they go into that, will have to pay more to get what they have today. Today, we have the best plan in the country, if not the world. I think it should be a model for America. We have offered time and time again, and the Heritage Foundation did, in fact, set forth a plan of transition to just that, without increased taxes, without mandates. It can be done. It was contained in Senator NICKLES' bill, which I cosponsored.

Mr. President, I have talked a long time. I will be glad to answer any questions if the Senator has any. And I do not want to walk away without answering questions.

Mr. KENNEDY. I would like to, if I could. I know my colleagues are here and want to talk about it.

Then, I am correct that the Senator's position is that he wants to maintain the Federal employees program, of which he is a member, of which I am a member, all 100 Members of the Senate, and the House and 10 million Americans, he wants to maintain that as a separate program?

The effect of the Mitchell bill will be that in 10 years every Member of the Congress, every Member of the Senate as well as individuals across this country, if they so choose, would also be able to participate in the same program.

Now, as I understand it, the Senator's position is that he wants to maintain what we have, and he finds that the idea of having the Federal employees program, which has been expanded, supported by the chairman of the committee, Senator GLENN, in the Senate, the chairman of the committee in the House of Representatives, Mr. CLAY, and has even been accepted by Senator ROTH in a more limited way, who talked about that for several years, he wants to make sure that our program, the Federal employees program, will be maintained as a separate program and is not willing to put us in the same pool as the rest of Americans.

Mr. STEVENS addressed the Chair.

Mr. KENNEDY. Is that not the effect of the Senator's position?

Mr. STEVENS. If I still have the floor—I think I do still have the floor.

The PRESIDENT pro tempore. The Senator from Alaska has the floor.

Mr. STEVENS. I say to my friend—and he is my great friend, and I have great admiration for what he is trying to do—I just wish he would listen again. Let me find the section that deals with this.

Let me tell the Senate and the Senator from Massachusetts, Mr. President, that he still does not hear me. I know what we have, and I think it is a good plan and I hope we can create another plan that will give every American access to the same kind of plan. The Mitchell bill does not present the same options for Americans that we have under FEHB. It says the "standard benefit plan." Beyond that, let me tell you, it also says—and it is what has moved my friends who are the leaders of the Federal employees. I am reading from section 1342.

> The Office of Personnel Management shall develop FEHBP supplemental health benefit plans. The Office of Personnel Management shall meet and confer with representatives of Federal employees and annuitants regarding the supplemental services plans and the cost-sharing plans to be offered—including premium contributions, if any, to be made by the Federal Government with respect to such plans for Federal employees and annuitants—through a process to be established by the National Partnership Council.
>
> The Federal Government shall offer FEHBP supplemental health benefit plans developed in accordance with subsection (a) and cost-sharing plans as provided in section 1141 to Federal employees, annuitants, and any other community-rated individual.

What is that saying, Mr. President? It says after 2005, you merge everybody into these plans. You tell the public that they have the same plan as everybody else, but you negotiate with the leaders of the employees and you give them supplemental benefits that are not under this bill to be made available to the public. The most duplicitous section is right there, section 1342. It says, contrary to what the Senator from Massachusetts says, the public will not be getting what the Federal employees will get.

The Federal employees, after they are downgraded by the Mitchell plan, will then be given supplemental benefits. You talk to the labor leaders. They will tell you it is the supplemental benefits section that tells them, "Don't worry, boys; we are going to see to it that your employees still get what they have got now"—supplemental benefits above what the average American has under the health benefit plan paid for by small employers.

I say we could use the FEHB plan as a model. Heritage showed us the direction in how that could be done. I have some slight disagreement with some of the suggestions they made, but they made basically a good suggestion. Take FEHBP as a model, keep it intact, make sure you make it work and compare it to these other plans as they develop. Do they offer the public the same kind of options, the same freedom that Federal employees have, including Members of Congress?

And the cost to the taxpayer the Senator from Massachusetts forgets entirely. As the cost to the employees goes up, the cost to the taxpayer maintaining the existing coverage for medical insurance for employees will likewise go up. The Federal Government pays 72 percent of those costs. So by definition, when they go to community-rated policies under carriers in these communities all over the country, there will be a difference between what we now get with the bid system.

Under the "big six" formula, whoever comes into the plan gets reimbursed,

based upon the formula of what the big six provided to Federal employees. They take 60 percent of those premiums, and that is the average that no carrier under the FEHB program will exceed.

There is nothing like that in the Mitchell bill for the public. The public is not told that. They have said, "Look, we will bring the public into these separate pools and then in 2005 we are going to merge them."

"Oh, but don't worry, employees, because when we do merge them, section 1342 has special rules for FEHBP supplemental plans. We are going to devise a supplemental plan for all Federal employees."

Now, I ask you, Mr. President, is that not misleading the American people? All I am asking is that we maintain the FEHB Program, make it viable, maintain it—it is the lowest possible cost to the taxpayers, who are really our employers—and extend that concept out to the public, as suggested by Heritage, as suggested by Mitchell, in effect, but Mitchell does not do it that way. It leads to the demise of FEHB in 10 years. The model will be gone. Oh, but the model will then be supplemented under plans to be negotiated to keep the support of the labor leaders as far as this bill is concerned.

I think it is wrong, Mr. President.

I have taken a lot of time of the Senate.

I yield the floor, Mr. President.

The PRESIDENT pro tempore. The Senator from New Jersey.

RETURN OF LISA AND SAMI ABEQUA

Mr. LAUTENBERG. Mr. President, I regret that I am the one who is interrupting this debate because I think there is still a lot of ground to cover, and I hope that at a later moment perhaps we can determine what the facts are and get on with the discussion that has been taking place here.

Mr. President, for the last several days, the Senate has been absorbed in a painstaking debate over health care reform. But while we do that, we dare not forget our other duties to the American people, to our constituents. I wish to discuss one of those duties now, a special need to help a constituent requiring a solution to an overwhelming problem.

As my colleagues may recall, some weeks ago, a Jordanian man named Mohammad Abequa strangled his estranged wife at her home in New Jersey. And after murdering their mother, he abducted their two children, Lisa, a girl 6 years of age, and Sami, a boy 3 years old, and took them to his sister's home in Jordan.

Now, he was charged with murder by an American court, and the Jordanian authorities in a cooperative effort located him, charged him with murder and with kidnapping and arrested him.

He has confessed to the crimes and is now in jail in Jordan, but his arrest left the children, Lisa and Sami, in legal limbo because the murderer's family seized custody of the American-born children.

Last month, during consideration of the foreign operations bill, the Senate supported an amendment that I offered calling for the children's safe return to the United States. Since then, along with other members of the New Jersey delegation, I have worked through the State Department and the Jordanian Government, including King Hussein, to accomplish a very simple goal, and that is the release of Lisa and Sami and their return to the legal custody of their maternal aunt in Paterson, NJ. She was awarded guardianship by a State court in New Jersey.

Today, Mr. President, I am delighted to announce that Lisa and Sami Abequa are on their way back home.

In an earlier era, the children's saga could have turned into an international bureaucratic nightmare. It might have taken months or even years before the children were able to return to America. But thanks to an unprecedented international effort, Lisa and Sami are coming home today. They are in the air right now on their way from Frankfurt, Germany, accompanied by their tenacious aunt, courageous aunt, Nesime Dokur of Paterson, NJ, who traveled to Jordan on August 1 and stayed there until yesterday to take custody of her niece and nephew.

Our negotiations for the release of Lisa and Sami are symbolic of the new spirit of warmth and cooperation that now characterizes our relationship with King Hussein and the Jordanian Government. Lisa and Sami's homecoming would not have been possible without the support and intervention of President Clinton who took the time, despite a pressing agenda of getting a Washington declaration signed, the agenda with health care, and crime legislation, to effect the release of these two children.

It would not have been possible without the personal involvement and the commitment of King Hussein, who met with us more than once last month when he was in the United States to hear our concerns about the welfare of these two children. He worked with us to expedite the process of bringing the children home.

In addition to President Clinton and King Hussein, I must thank Secretary of State Warren Christopher and our Ambassador Wesley Egan in Amman for their tireless efforts to facilitate our negotiations with the Jordanian Government.

I want to say a special thanks for the work of a member of my staff, Sharon Waxman, whom I sent over there to accompany Ms. Dokur and to give her advice and counsel, and to be in touch with our office. She went for what she thought was a 4-day stay. She was there 17 days. She helped work through the legal and diplomatic issues involved, and I am grateful to her.

I also must say how grateful I am to the occupant of the chair, the President pro tempore of the Senate, Senator BYRD, because he helped make that trip possible, thereby helping to expedite today's homecoming.

Finally, I want to thank other members of the New Jersey delegation who worked with me to make sure that these children would be brought home to the family and the country they know and they love.

My colleague, Senator BRADLEY, with whom I work on so many issues, was with me when we met King Hussein and offered our cooperation with him if he, in turn, could assure us that he would lend the power of his office to the release of those children; Congressman KLEIN, and Congressman TORRICELLI, and all contributed to this process.

Mr. President, Lisa and Sami's return to America will be at best bittersweet. These two young children, just 3 and 6 years of age, will never again see their mother. They do not know at this point that their mother was murdered, that they will not see a father with whom there was a very troubled relationship. Nevertheless, children's affinity for a parent, sometimes even if they are harmed by a parent, is something that they regard as a precious legacy. These children will never see the loving mother or the father that they knew. They do not know that. They are in a state of some confusion. They have been taken away from their homes. They have been away for a month in a country where the language is strange, and the family was estranged. They never saw these relatives before they were spirited away in the dark of night by their criminal father.

So this return we hope will be the beginning of a period of love and affection, repair and consolation for these children. They are going to have to make enormous adjustments to the traumatic change in their lives.

We are going to help them in whatever way we can. Thanks to our cooperative efforts, all of us, Mr. President, Lisa and Sami will have a chance to rebuild their lives at home in New Jersey under the custody of their loving and dedicated aunt and their maternal grandmother.

Mr. President, this effort to bring these children home I think reminds all of us about what it is that we are here for in Washington, about the human element that sometimes gets lost in the maze of legislative language and debates. It reminds us that our job is to listen to the American people, to hear their problems, and hear them when they cry out for help, and to try to help them. The rewards for each one

of us—and there is not anyone here who has been in the U.S. Senate or the Government for any length of time who has not taken great satisfaction out of seeing the result of some special effort that you supply.

So, when we focus on one individual plight or intervene to help one family as we did here, we can feel just a mite better about the job that we have.

Sometimes we do it by learning from a single tragedy, like the recent murder, also in New Jersey, of a 7-year-old named Megan Kanka, who was first sexually attacked by a frequent sexual pervert, and then he killed her. We have to try to in some way make that young life, 7 years of age, a lasting memorial to what happens when you do not pay attention to signs that you see, or have laws that can protect children, as we know exist in the crime bill that is under contemplation.

Sometimes we do our job by listening more to the general concerns of the American people and passing comprehensive legislation like health care reform to improve conditions for all Americans now and in the future.

Mr. President, some days, as the occupant of the chair knows perhaps better than most, many days are very discouraging, hard work, little progress to show. But every now and then, whether it is the prospect of a health care bill, or a crime bill, or helping Lisa and Sami to come home, or create a law in the honor and the memory of Megan Kanka, that says we have to press forward, that is our mission. And we all occasionally, Mr. President, have to take the pledge that we will continue on to try to serve our people.

I thank you. I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that following the completion of Senator BRADLEY'S remarks—which he has just stated will be no longer than 15 minutes and probably a little shorter, the Senate vote on the pending Daschle amendment.

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

Without objection, it is so ordered.

Mr. MITCHELL. I ask unanimous consent that it now be in order to request the yeas and nays on that vote.

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

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the vote.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that following Senator BRADLEY'S remarks, Senator HUTCHISON be recognized for 5 minutes, and following Senator HUTCHISON'S remarks, Senator DASCHLE be recognized 5 minutes, and then the Senate vote on the amendment.

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

Mr. MITCHELL. Mr. President, Senators should be aware that a vote will occur in approximately 20 to 25 minutes on the pending amendment. I thank my colleagues and I thank the Senator from New Jersey.

Mr. BRADLEY addressed the Chair.

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

Mr. BRADLEY. Mr. President, let me say first of all that I would like to salute my colleague, Senator LAUTENBERG for his efforts in the Abequa case. I was pleased and proud to join him in the efforts. But he made the difference, and I think his conduct is in the best tradition of public service, helping another human being in the time of stress. I think FRANK LAUTENBERG has had many fine moments in the U.S. Senate. But today when he—and hopefully I will be joining him—meets these children coming off of the plane in Newark, NJ, from Jordan, this will be one of his finest moments. I think he deserves the gratitude not only of the families, but the salutations and praise of his colleagues. I am giving that to him today.

I hope, also, that if the crime bill is reopened, Megan's law will be tightened. Now the bill has a Megan's law in it, but if it is reopened, I hope that it will be tightened. Again, that will be because both he and I have talked to the President and urged that it happen if the bill is reopened.

Mr. President, last spring I gave a speech on violence in which I called for a national rebellion against violence with a goal to reduce violent crime by 75 percent in 10 years. I tried to point out that the blaze of violence is fed by many fires, and I tried to point out seven truths about violence in America.

Truth 1: There is no miracle cure, and the answer lies closer to home than to Washington, DC.

Truth 2: Violence will not be stopped by soft words. Every person who uses violence must pay the price in lost freedom, and doing time, especially for the young, must be a memory that one does not ever want to repeat.

Truth 3: We will never counter violence unless we restrict handguns used in 80 percent of America's gun murders. What is common sense to people in virtually every other country of the world becomes a constitutional crisis for us.

Truth 4: There is no substitute for a job. If we can move those on the bottom of the economic ladder up just a few rungs, our efforts against violence will have acquired a powerful ally.

Truth 5: Violence is a phenomenon caused by twisted values and a loss of self-esteem and self control. The formation of values and self-discipline begins in childhood, and teaching them is the job of parents. Unless we instill them in all our children, we will have only ourselves to blame.

Truth 6: We need to make it as unfashionable to sell violence in America as it is to smoke cigarettes. We do not need censorship; we need enhanced citizenship, particularly in the boardrooms.

Truth 7: Drugs and violence go together like gunpowder and a match. To ignore an addiction as a national problem is to sentence more Americans to death.

Mr. President, like so many other issues of public life and in the debate about violence, people do not listen to each other. They are frozen in a dichotomy between conservative or liberal, Republican or Democrat, tough or coddling. Those who believe the answer is gun control do not listen to those who want the death penalty. Those who believe severe punishment is the answer cannot see the necessity of limiting guns. Often, neither gun control advocates nor tough sentencers see the connection between societal violence and poverty, family disintegration and exploitive media violence. Instead of confronting reality, more and more people look for magic bullets to stop violence in its tracks.

Mr. President, the truth is much harder. The crime bill, under the leadership of Senator JOE BIDEN, tried to face the truth and to deal with the reality. With only 13 percent of the crime-fighting resources available to the Federal Government, the answer to violence is truly closer to home than it is to Washington, DC. But a sound Federal effort can make a difference.

The crime bill is such an effort. It combines punishment—100,000 more police on the streets, the police corps, three strikes and you are out, boot camps and more prisons, tougher death penalty—with preventive measures, including everything from an assault weapons ban to community schools.

The House of Representatives voted down the rule last week. I hope the House will vote again and reverse its decision. Mr. President, there were two groups, roughly, opposed to this crime bill. Members of the Black Caucus and Republicans from New Jersey and other northeastern States should have known better, because they know the situation in America's cities. Many of the others who voted the bill down represent small towns far from high-crime areas, towns where kids walk to school, join debate clubs, sing in the high school glee club, play in the band, compete in sports such as football and basketball. And it is these Congressmen I would like to address my remarks today to.

Some say these Congressmen voted "no" because of pressure from the NRA. I would like to think that was not so. I would like to think they voted "no" because they just do not know. Maybe they really do not know what

people of good will are up against in America's cities. Maybe if they did know, they would change their vote.

So, Mr. President, today I would like to share a letter that I received just a short time ago from Patricia Roberts, describing a visit that she made with a Catholic nun, Sister Piper. The letter says:

DEAR SENATOR BRADLEY: Every so often I accompany Sister Piper, a part-time prison chaplain, to an evening meeting with young inmates at the Bordentown Juvenile Medium Security Facility. Recently, we took your speech on violence, reviewed its highlights, and asked the young people what they thought of it and what suggestions they might have. None of our group of three young people knew what a Senator was, and when we told them that it was someone in Washington, DC, might have their interests at heart, they were amazed. We told them we would send their ideas on to you, Senator Bradley, and you might respond to them.

They agreed that violence destroys trust and love, as you said in your speech, and all three spoke about how being in prison killed their self-respect. Each spoke about his mother and how sorry they were for her sorrow at their deeds. The only reference to a father was from one young man who said he learned bad things from his father who was in jail.

One young man said that he was not brought up to land in jail but, "The streets took control of me * * * I was upset and pushed to the limit."

Another suggested that if someone had said to him, "Do you really want to do this," if he had a guardian angel or two or three, someone he could trust, it might make a difference."

All of the young men spoke about school. One said, "Einstein and Benjamin Franklin mean nothing to me." They asked for more practical studies—how to cope in the world, on the streets, skills so they could get a job. Jobs that pay money are crucial to them.

One, a 19-year-old father of seven, said his kids come before money. He also literally did not know that it is customary to have one person as the mother of all your children. Sister Piper, by no means a conservative, believes we need to teach basic moral procedures that most of us take for granted.

In an earlier meeting, one young man said he wished there were more parks in cities where there would be someone to talk to. He told us his father beat him from as early on as he could remember and he took to the streets to escape.

Most of the young men seem very bright—not educated but certainly not stupid. All acknowledged that going back to where they came from—Camden, Newark, Jersey City—is going to be hard if they want to go straight. They acknowledged that they need help, someone to talk to and learn from. Sister Piper tells them that unless they try hard to change she is likely to see their names on the obituary pages.

One fellow believes that 9 out of 10 of his problems started in school because what he was learning had no relevance and said: "We want to learn about other good people in good communities and how good communities get along. Maybe we could study communities in Colorado or Montana." It was as though he, from Camden, could not imagine a "good community existing" in New Jersey.

There you have it, Mr. President: A father who beats his son; sons who do not know that it is customary to have one person as the mother of all their children; kids who want someone to trust, someone who would have said "no" to them, someone to talk to in a park, some idea of how good people in good communities get along.

Mr. President, if crime is to be controlled, not only must criminals be arrested, prosecuted, jailed and disarmed, but civil society must be armed to protect itself. This is a matter not only of putting more police on the streets, but also of giving the institutions of civil society the resources they need to prevent crime, by confronting a criminal counterculture in which violent crime is believed to be the only effective means to wealth, status, and self-respect. It is self-defeating to lock up one criminal in prison while allowing two more to grow to maturity on the streets.

In those neighborhoods in which the fabric of civil society is most unraveled, research has found that the most effective organizations holding the fort against the culture of the streets are neighborhood-based youth organizations. These organizations are diverse in character—theater groups, tumbling teams, basketball teams, boys and girls clubs, churches that open their basements—but they all share some common characteristics. They are multipurpose organizations.

They are aggressive in seeking out kids to work with. They do not just wait for them to come to the door. They act as shields against the streets. They are decidedly local in their orientation and leadership. They view kids not as problems but as resources to be developed. Kids are not treated as if something is wrong with them but as if something is right with them that needs to be exposed and encouraged. They provide stable and consistent relationships with adults. They develop flexible programs that often fly in the face of bureaucratic conventions, making use of nontraditional settings, nontraditional hours and nontraditional personnel.

Finally, Mr. President, they require deeply committed local leaders who have themselves been through the trials that confront the children that they work with.

Mr. President, in this crime bill one thing we tried to do in the preventive section was strengthen the institutions of civil society. We tried to develop community schools, schools that are open to the neighborhood, to allow kids to come in after school, to be mentored, to provide stimulative educational experiences for these kids, and maybe some chance to interact with an adult over a longer period of time.

Mr. President, midnight basketball has also taken a hit here in the course of the last few days. On one level midnight basketball is important because the people who are playing the game in the gym are not on the street. But it is not just about basketball. A friend of mine, a former pro, a Celtic named Jo Jo White, runs a program in Rochester, NY, and the points in his program are scored not only how many balls go in the basket but on what a student's grades are and what community projects he has been involved with.

Finally, basketball itself, I would have to say, is not without inherent merit in terms of promoting unselfishness, discipline, teamwork, and goal setting.

In closing, Mr. President, I say to those who voted "no" in the House on the crime bill, think of your community without the Little League or the Boy Scouts or the high school football team. Think of your high school without the glee club or the band or the debate team. Think of your parks filled with danger and drugs. Think of your children going to school through a war zone where violence takes another life every day. Ask yourself what you would do if you could not afford to move. Ask how understandable it would be to you to have the crime bill voted down.

What we tried to do in the crime bill was give communities some more resources to fight against the counter culture of violence. What we tried to do is give those three kids in the Bordentown Juvenile Center some hope when they return to Camden or Newark or Jersey City, or countless other cities, that there will be someone to talk to, someone to say, "Do you really want to do that?"—someone to trust, someone maybe in the clergy, maybe a community leader, maybe a politician and, maybe a basketball coach, who will turn one life in the right direction.

Mr. President, that is what we tried to do in the crime bill. I think we succeeded much more than anyone has focused on, and I hope that those Congressmen from the small towns who voted "no" might understand what is at stake and this time vote "yes."

I yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I want to rise today to thank the Senator.

The PRESIDING OFFICER. The Chair needs to relate to the Senator from Montana that under the previous order the Senator from Texas was to be recognized for up to 5 minutes and then the Senator from South Dakota and then open debate.

Mr. BURNS. I ask unanimous consent that I might be allowed 5 minutes to make my statement.

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

The PRESIDING OFFICER. Is there objection.

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

The PRESIDING OFFICER. The Senator objects.

Mr. BAUCUS. Mr. President, I understand that my colleague, the Senator from Montana, would like to speak on this amendment. I, too, would like to speak on this amendment. I think it is a very important amendment. I understand there is a vote scheduled fairly soon.

I am wondering if we could ask for an additional 10 minutes before the vote occurs so that my colleague and I can address this amendment.

Mr. MOYNIHAN. I am sorry. I did not know anything about this.

The PRESIDING OFFICER. The Senator from Montana asks for an additional 10 minutes.

Is there objection?

Without objection, it is so ordered.

Mr. BURNS. Mr. President, I thank my colleague from Montana. As we move into this area, I just want to state, with these provisions in rural health, and, of course, our State of Montana which is entirely rural—in fact, it is considered one of the frontier States. We are not using wagons in the historical sense, but when it comes to delivering health care services, we might as well be.

I displayed these maps the other night on the floor, but they are certainly worth showing again. Montana has nine counties with no physicians at all. These two counties down in the southeast, Carter and Powder River Counties, are as big as Massachusetts. Sure, they only have 3,600 people who live there, but they have to go a long way for their basic health care. In fact, if you consider the 39 counties in Montana without ob/gyn services—and this will give you an idea what that looks like—I would say I would have to worry about women's health care issues in the middle of Garfield County, which is over here. This red, by the way, in the central part of the State represents an area about the size of Indiana. So we have an access problem. It is not because of high-cost health care, Mr. President. It is because providers are not there. It would not matter how cheap health care was, these folks still would not have access.

And we have to remember when we start talking about the Canadian system or the American system, the two differences are that in Canada you have universal coverage but you do not have universal access, and in this country we have universal access but we do not have universal coverage. It is just the other way around.

Basically, we have a mix of the two in the State of Montana. So they have to travel many, many miles just for their basic health care needs.

Have no doubt, I am all for some of these provisions that expand health care to rural areas. My colleagues here in the Senate, and the folks at home, know well the work I have done to promote telemedicine in the State of Montana. And I appreciate Mr. HARKIN's hard work in this area. He knows the challenges of getting health care delivered to rural areas. And as encouraging as grant money for these projects may be, what is really needed is for the Government to get out of the way, let the private sector move forward, and eliminate the barriers that now exist. Namely, Medicare reimbursement. Telemedicine is ready to explode all across the country. The No. 1 barrier holding it back is not money—though that always helps—it is not doctor resistance, it is not lack of technology, it is the lack of reimbursement by HCFA that is slowing down progress.

But, Mr. President, these amendments expanding access to rural areas would not benefit these underserved areas one bit if the rest of the Clinton-Mitchell bill is left intact. Let me explain.

In rural areas there is a predominance of small businesses and self-employed individuals. Montana is an agricultural State. The eastern part of my State is nearly all agriculture—farming, ranching, and the support that goes along with it. These folks will be so burdened by other provisions, that health care will be the least of their problems.

The mandate, though not triggered for a few years, will no doubt have a profound effect on rural America, and most of Montana. Even if the business was exempt, having fewer than 25 employees, the mandate would fall on the employees. Requiring employees then to pay 100 percent is a hardship. This is an individual mandate on folks whose income doesn't have a lot of wiggle room.

On top of that, the self-employed are not allowed to deduct 100 percent of their health insurance costs. Big business can. We do not have a whole lot of big business in Montana. In fact, of 22,223 businesses in Montana, 21,752 of those are considered small business—that is 98 percent, Mr. President.

The provision we struck last night would have had such an impact on those businesses who already provide comprehensive health care to their employees, I am not sure these small businesses could have survived. And I think that is just one justification for going through this bill with a fine tooth comb—although painstakingly slow, it is necessary, because Americans want to know. As my colleague from Oklahoma, Senator NICKLES, reported last night, this provision would easily have turned for-profit companies into not-for-profit companies.

The taxes on health plans, again, would cut into the operating expenses of small business. Adding a 1.75 percent tax on all health insurance premiums, most of which goes to fund Academic Health Centers—which we don't even have in Montana—simply adds to the cost of health care. This does nothing to make insurance more affordable. If anyone is under the impression that the Clinton-Mitchell plan would not grow Government, why do we need all these new taxes? History clearly shows more taxes grows Government.

Here you are, encouraging and mandating—some now, some later—employers to provide health care insurance. And then you tax them for doing so. I'm not saying the hardships will be felt only in rural areas. They will be felt all across the board. But in rural areas, there is not much room to maneuver. The options are limited. And if we tack on burden after burden, pretty soon, our ability to provide food and fiber for Americans is seriously impeded.

And if we cut Medicare and Medicaid by hundreds of billions, funding that makes up the majority of the payments received by rural hospitals, those facilities will close. We have already experienced hospitals closing and whittling down services in Montana. The Medicare payments don't cover costs as it is. Cut those more and we'll have nowhere to deliver the services. Telemedicine won't even be an issue if there is no facility on the rural end.

Mr. President, my point is this. We can do all sorts of things to expand access to these rural areas—and I think we should—but if we fail to keep these same areas in mind when crafting the rest of the package, then these provisions are useless. Rural America is already on the edge, let's not push them over.

I look forward to working with both sides of the aisle on making sure health care is affordable and accessible in every sector of our fine country. And I am going to fight to make sure that this operation does not include a massive rural-ectomy.

Mr. President, I yield to my colleague from Montana to make a statement on this issue, because I do not think there are two people in this body that better understand the challenge that rural health faces in order to serve the people of the State of Montana.

I appreciate his work in this area. And I yield the floor.

The PRESIDING OFFICER. Under the earlier previous order, the Senator from Texas has reserved 5 minutes.

The Senator is recognized.

Mrs. HUTCHISON. Mr. President, I will be happy to yield to the other Senator from Montana to continue this process, and then take up after he has finished.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Senator from Texas.

It is fine with me if the Senator from Texas wishes to proceed.

Mrs. HUTCHISON. I just felt that, since Senator BURNS had started talking about Montana, that you would like to continue talking about the unique problems there, and then I will talk about the unique problems in Texas.

Mr. BAUCUS. I thank the Senator.

Mr. President, I rise in very strong support of the amendment offered by the Senator from South Dakota [Mr. DASCHLE], because it will improve the quality of health care in rural areas and give rural communities more access to the health care system.

One in four Americans today lives in a rural area. Rural areas are going through a health care crisis in many ways even worse than the crisis everyone else faces. Rural areas suffer high rates of uninsurance and underinsurance. Rural counties have chronic and severe shortages of doctors, pharmacists, nurses, and other health professionals.

Rural Americans get very little preventive care. And rural hospitals are closing. One in 10 shut down in the last decade.

In Montana, the statistics are truly alarming. Over 20 percent of Montanans have no health insurance. That is one in every five. Three quarters of our State is a health professional shortage area. Almost half of our 56 counties have no doctor who can deliver a baby. And eight Montana counties have no doctor at all.

As we consider national health reform, rural counties must get the help they need to provide high-quality health care to their people.

The Mitchell bill already contains strong rural health provisions. This amendment has several rural health provisions which will strengthen the bill even further. I intend to speak this morning on just three.

NATIONAL HEALTH SERVICE CORPS

First, this amendment provides more money to the National Health Service Corps. Under this program, physicians and other health professionals agree to work in underserved areas in return for a scholarship or loan repayment.

This program is the only way to get access to hundreds of rural counties. Most young doctors leave medical school hundreds of thousands of dollars in debt. Since salaries in rural areas are so much lower than in urban areas, they simply cannot afford to practice in rural counties.

The National Health Service Corps now provides Montana with nine physicians and four physician assistants. Several Montana communities would have no primary care at all if not for this program.

Take the example of our hospital in Culbertson. Culbertson is a little town, population 796, about 25 miles west of the North Dakota border. Thanks to the loan repayment program, Culbertson has a physician and a physician assistant. Without them, the hospital would close. That would make it impossible for all of Roosevelt County to get emergency room services and basic primary care.

The National Health Service Corps is already making a difference in the lives of thousands of Montanans. With Senator DASCHLE's amendment, the corps can recruit about 40 more doctors to Montana counties that now have shortages. This means the men, women, and children in these counties will be healthier. And because they will get preventive care, Montana will save health care dollars down the line.

TELEMEDICINE

The Daschle amendment would also help end the isolation of rural health care providers, and improve the quality of the care they provide by funding a Rural Telemedicine Grant Program.

Telemedicine allows providers to use modern communications technology to consult with highly trained specialists in distant areas. It lets doctors transfer x rays or lab slides for analysis in top-quality laboratories. And it allows communities to develop innovative health education programs.

This amendment provides for telemedicine critical for rural areas.

This amendment also makes technical changes to the medical assistance facility program, a new hospital program contained in the underlying bill.

The medical assistance facility program is a critical reform for rural areas. It allows small hospitals to operate under more flexible rules. For example, it lets nurse practitioners and physician assistants admit patients even when a doctor is not present. It also gives them higher reimbursement from Medicare.

MAF's provide more than just inpatient care. They make it easier to provide other health services which the community otherwise would never have. An MAF is a base for 1-day-a-week dental service. It offers weekly physical therapy sessions, mobile mamography units, counseling services.

At least six rural towns in the State of Montana would have no hospital services—none—if it were not for this innovative program. Jordan, Ekalaka, Circle, Terry and all the farms and ranches nearby would have no medical service were it not for this very specialized program which makes or breaks rural health care in those parts of the country.

Mr. President, for all these reasons I strongly support the amendment and urge its adoption.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise to speak for the amendment. Texas is made up of 254 counties, 196 of those counties are considered rural.

Let me tell you about the Dairy Queen test—On weekends I travel through Texas and walking in and out of coffee shops and Dairy Queens I listen to people in rural Texas. What I hear is that they do not want the bureaucrats in Washington ruining their health care. They ask me, as their Senator, to bring that message back to Washington: They know we have problems for rural health care in our system—but they are concerned about the solution being talked about here. They are concerned that the system has a cold and the solution prescribed is chemotherapy.

The problems of health care delivery in rural America are real. The underlying health care bill encompasses many of the reforms that are necessary to improve the delivery system in rural America. However, there are a number of negative impacts on rural America that are evident throughout the bill. I support and agree with the Senator from South Dakota about his desire to improve the status quo in rural America. Many rural States are heavily dependent on the Federal Government for assistance in maintaining and enhancing rural health care resources. We must continue to be helpful—but we should also be focusing on ways of providing incentives as the Dole bill does and the development of infrastructure into rural America to yield to the States the flexibility to create viable programs.

Every county in rural America is different. Just as I do not believe that the Federal Government should be dictating to every individual what benefits to buy, I do not believe that we, as legislators, have the right to dictate what every county, city, town in rural America needs, wants, and should have. I grew up in LaMarque, a town of 15,000 outside of Galveston. I know our needs are a whole lot different from the needs of Sonora clear across the State. The point is that rural health care needs differ, rural Americans face unique health care situations and we should enable rural communities and States to play a strong role in designing and implementing solutions.

I heard both of my friends from Iowa talking about amendments that can improve this bill and I would like to support their efforts to make health care more accessible to rural Americans.

What are rural Americans concerned with? Rural Americans especially are concerned about the cost of insurance and mandates on employers. They would like to see health care coverage become more affordable and accessible; 100-percent tax deductibility should be available to individuals and the self-employed. This is achieved in the Dole bill, but not in the Mitchell plan. The American Farm Bureau Federation has estimated that for a typical family of four at a 15-percent tax level—$36,900—a full tax deduction could generate over $1,200 in saving per year.

That is an incentive for people to be able to go into the health care system. The self-employed deserve the same tax incentives that large corporations have. Medical savings accounts are another tool that rural Americans could benefit greatly from. Americans, rural, or otherwise, could save money for their health care needs without being penalized by the Tax Code. That option is not allowed in the underlying Mitchell bill. I am going to cosponsor an amendment to put it there. Small businesses in rural Texas oppose mandates. Farmers, ranchers, and small businesses across this country are already burdened with federal mandates. One more mandate is just another tax. I believe we can improve the rural health care delivery system without forcing many of these farmers and ranchers to cut employment or go out of business. Employer mandates will hit rural areas hard and have a devastating impact on fragile rural economies.

TAXES

Taxes will hit rural Americans hard. The Dole proposal provides solutions to many of these concerns without imposing new taxes or mandates. It will provide incentives for primary care practitioners to go to rural areas, it will raise the tax deductibility for the self-insured, it will allow small businesses, farmers, and ranchers to pool together to buy more affordable health care coverage. These reforms are steps in the right direction.

Mr. President, I want to conclude by expressing my support for what the Senator from South Dakota has proposed but also with my concerns that this one improvement, is one small step. We must go much further to address the needs of rural America as we address health care reform.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, under the unanimous-consent agreement, I have 5 minutes. I will yield that back to accommodate some Senators who must leave Washington.

I have a couple of unanimous-consent requests to make. First, I ask unanimous consent to make some technical changes. They have been approved by the managers.

I send the modification to the desk.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 2564), as modified, is as follows:

On page 112, line 6, insert "including residents of rural areas" before the period.

On page 215, line 10, strike "(c)" and insert "(d)".

On page 215, between lines 9 and 10, insert the following new subsection:

(c) TRANSFER OF DUTIES.—Effective January 1, 1996, the functions, powers, duties, and authority that were carried out in accordance with Federal law by the Office of Rural Health Policy in the Department of Health and Human Services are transferred to the Office of the Assistant Secretary for Rural Health in the Department of Health and Human Services.

On page 612, line 24, insert before the period the following: ", at least one of whom resides in a rural area".

On page 613, line 9, insert before the period the following: ", at least one of whom resides in a rural area".

On page 647, strike lines 25 and 26, and insert the following:

"For purposes of carrying out section 3341, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1997 through 2001.".

On page 644, line 10, strike "or health professional shortage areas" and insert "area, health professional shortage area, or other rural underserved area (as designated by the Governor)".

On page 651, between lines 9 and 10, add the following new paragraph:

(3) SUBPART F.—For the purpose of providing funds under subpart F, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000.

On page 652, line 18, strike "and".

On page 652, between lines 18 and 19, insert the following new paragraph:

"(7) rural health clinics, except that for-profit rural health clinics shall only be eligible for direct loans and grants under subpart C; and".

On page 652, line 19, strike "(7)" and insert "(8)".

On page 653, after line 23, add the following new subsection:

(f) PURPOSES AND CONDITIONS.—Grants shall be made under this part for the purposes and subject to all of the conditions under which eligible entities otherwise receive funding to provide health services to medically underserved populations under the Public Health Service Act. The Secretary shall prescribe comparable purposes and conditions for eligible entities not receiving funding under the Public Health Service Act, including conditions with respect to the availability of services in the area served (as provided for in section 330(e)(3)(A) of such Act), and conformance of fee and payment schedules with prevailing rates (as provided for in section 330(e)(3)(F) of such Act). With respect to rural health clinics, such comparable purposes and conditions shall include conditions concerning sliding fee scales under section 1128B(b)(3)(D) of the Social Security Act and waivers of deductibles under section 1833(d) of such Act.

On page 672, line 1, strike the subsection heading and insert "FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS".

On page 675, between lines 16 and 17, add the following new subpart:

Subpart F—Rural-Based Managed Care Grants

SEC. 3467. RURAL-BASED MANAGED CARE GRANTS.

(a) IN GENERAL.—The Secretary shall award grants for the development and operation of rural-based managed care networks.

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an applicant organization shall—

(1) prepare and submit to the Secretary an application, at such time, in such manner and containing such information as the Secretary may require;

(2) be based or provide services in rural or rural underserved areas; and

(3) be currently operating or in the process of establishing a provider network serving the nonmedicare population .

(c) USE OF FUNDS.—Funds provided under a grant under this section may be used—

(1) for the development and implementation of rural-based managed care networks;

(2) for data and information systems, including telecommunications;

(3) for meeting solvency requirements for a risk-bearing entity under the medicare program under title XVIII of the Social Security Act;

(4) for the recruitment of health care providers; or

(5) for enabling services, including transportation and translation.

(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to—

(1) applicants that will use amounts received under the grant to develop and operate rural-based managed care networks that would serve at least one underserved rural area; and

(2) applicants that involve local residents and providers in the planning and development of the rural-based managed care network.

(e) DEFINITIONS.—As used in this section

(1) RURAL AREA.—The term "rural area" means a rural area as described in section 1886(d)(2)(D) of the Social Security Act.

(2) UNDERSERVED RURAL AREA.—The term "underserved rural area" means a health professional shortage area under section 332 of the Public Health Service Act (42 U.S.C. 254e) or an area designated as underserved by the Governor of a State taking into account—

(A) financial and geographic access to health plans by residents of such area; and

(B) the availability, adequacy, and quality of qualified providers and health care facilities in such area.

(f) STUDY.—The Secretary shall study different risk-bearing approaches for rural managed care and payment methodologies that differ from or modify the medicare average area per capita cost payment methodology.

Beginning on page 675, strike line 24 and all that follows through line 4 on page 676, and insert the following: "priated $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act.".

On page 676, line 10, strike "NURSES" and insert "ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS".

On page 676, line 20, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 676, lines 21 and 22, strike "nurse anesthetists" and insert "nurse anesthetists or physician assistants".

On page 677, between lines 13 and 14, add the following new parts:

PART 4—ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

SEC. 3491. ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission, shall clarify existing and future policy guidelines, with respect to safe harbors, by providing additional illustrative examples with respect to the conduct of activities relating to the provision of health care services in rural areas.

(b) DISSEMINATION OF INFORMATION.—The Attorney General, in consultation with the Commissioner of the Federal Trade Commission and the Assistant Secretary for Rural Health, shall develop methods for the dissemination of the guidelines established under subsection (a) to rural health care providers.

PART 5—EMERGENCY MEDICAL SYSTEMS

SEC. 3495. GRANTS TO STATES REGARDING AIRCRAFT FOR TRANSPORTING RURAL VICTIMS OF MEDICAL EMERGENCIES.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1252. GRANTS FOR SYSTEMS TO TRANSPORT RURAL VICTIMS OF MEDICAL EMERGENCIES.

"(a) IN GENERAL.—The Secretary shall make grants to States to assist such States in the creation or enhancement of air medical transport systems that provide victims of medical emergencies in rural areas with access to treatments for the injuries or other conditions resulting from such emergencies.

"(b) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application in such form, made in such manner, and containing such agreements, assurances, and information, including a State plan as required in paragraph (2), as the Secretary determines to be necessary to carry out this section.

"(2) STATE PLAN.—An application submitted under paragraph (1) shall contain a State plan that shall—

"(A) describe the intended uses of the grant proceeds and the geographic areas to be served;

"(B) demonstrate that the geographic areas to be served are rural in nature;

"(C) demonstrate that there is a lack of facilities available and equipped to deliver advanced levels of medical care in the geographic areas to be served;

"(D) demonstrate that in utilizing the grant proceeds for the establishment or enhancement of air medical services the State would be making a cost-effective improvement to existing ground-based or air emergency medical service systems;

"(E) demonstrate that the State will not utilize the grant proceeds to duplicate the capabilities of existing air medical systems that are effectively meeting the emergency medical needs of the populations they serve;

"(F) demonstrate that in utilizing the grant proceeds the State is likely to achieve a reduction in the morbidity and mortality rates of the areas to be served, as determined by the Secretary;

"(G) demonstrate that the State, in utilizing the grant proceeds, will—

"(i) maintain the expenditures of the State for air and ground medical transport systems at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received; and

"(ii) ensure that recipients of direct financial assistance from the State under such grant will maintain expenditures of such recipients for such systems at a level at least equal to the level of such expenditures maintained by such recipients for the fiscal year preceding the fiscal year for which the financial assistance is received;

"(H) demonstrate that persons experienced in the field of air medical service delivery were consulted in the preparation of the State plan; and

"(I) contain such other information as the Secretary may determine appropriate.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—In determining whether to award a grant to a State under this section, the Secretary shall—

"(1) consider the rural nature of the areas to be served with the grant proceeds and the services to be provided with such proceeds, as identified in the State plan submitted under subsection (b); and

"(2) give preference to States with State plans that demonstrate an effective integration of the proposed air medical transport systems into a comprehensive network or plan for regional or statewide emergency medical service delivery.

"(d) STATE ADMINISTRATION AND USE OF GRANT.—

"(1) IN GENERAL.—The Secretary may not make a grant to a State under subsection (a) unless the State agrees that such grant will be administered by the State agency with principal responsibility for carrying out programs regarding the provision of medical services to victims of medical emergencies or trauma.

"(2) PERMITTED USES.—A State may use amounts received under a grant awarded under this section to award subgrants to public and private entities operating within the State.

"(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant to a State under subsection (a) unless that State agrees that, in developing and carrying out the State plan under subsection (b)(2), the State will provide public notice with respect to the plan (including any revisions thereto) and facilitate comments from interested persons.

"(e) NUMBER OF GRANTS.—The Secretary shall award grants under this section to not less than 7 States.

"(f) REPORTS.—

"(1) REQUIREMENT.—A State that receives a grant under this section shall annually (during each year in which the grant proceeds are used) prepare and submit to the Secretary a report that shall contain—

"(A) a description of the manner in which the grant proceeds were utilized;

"(B) a description of the effectiveness of the air medical transport programs assisted with grant proceeds; and

"(C) such other information as the Secretary may require.

"(2) TERMINATION OF FUNDINGS.—In reviewing reports submitted under paragraph (1), if the Secretary determines that a State is not using amounts provided under a grant awarded under this section in accordance with the State plan submitted by the State under subsection (b), the Secretary may terminate the payment of amounts under such grant to the State until such time as the Secretary determines that the State comes into compliance with such plan.

"(g) DEFINITION.—As used in this section, the term 'rural areas' means geographic areas that are located outside of standard metropolitan statistical areas, as identified by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section, $15,000,000 for fiscal year 1995, and such sums as may be necessary for each for fiscal years 1996 and 1997.".

Beginning on page 718, strike line 23 and all that follows through line 5 on page 719, and insert the following new paragraph:

"(8) with respect to the National Health Service Corps program referred to in section 3471, $314,000,000 for fiscal year 1996, $285,000,000 for fiscal year 1997, $365,000,000 for fiscal year 1998, $382,000,000 for fiscal year 1999, $386,000,000 for fiscal year 2000, $91,500,000 for fiscal year 2001, $53,350,000 for fiscal year 2002, $38,100,000 for fiscal year 2003, and $38,100,000 for fiscal year 2004, of which $2,000,000 shall be made available in each of the fiscal years 1996 through 2000 to carry out section 338L of the Public Health Service Act;".

On page 720, line 22, strike "; and" and insert a semicolon.

On page 720, between lines 22 and 23, insert the following new paragraph:

"(14) with respect to the development of rural telemedicine under section 3341, $15,000,000 for each of the fiscal years 1997 through 2001; and".

On page 720, line 23, strike "(14)" and insert "(15)".

On page 725, strike lines 7 through 11, and insert the following:

"(6) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

"'(1) IN GENERAL.—The Secretary shall use amounts made available under section 3471 of the Health Security Act to carry out this section in each of the fiscal years 1996 through 2000.'".

On page 777, line 18, strike "and medical assistance facilities".

On page 780, line 3, insert "In the case of payment under this subsection to medical assistance facilities, the lesser-of-cost-or charges provisions under subsection (j) are not applicable." after "services.".

Beginning on page 808, strike line 16 and all that follows through page 809, line 4, and insert the following:

(2) by inserting "described in paragraph (2) and services furnished by a physician assistant or nurse practitioner described in such paragraph that would by physicians' services if furnished by a physician" after "physicians' services",

(3) by inserting "physician assistant or nurse practitioner," after "physician",

(4) by striking "10 percent" and inserting "the applicable percent", and

(5) by adding at the end the following new paragraph:

"(2)(A) The applicable percent referred to in paragraph (1) is—

"(i) in the case of primary care services furnished by a physician, a percent determined by the Secretary that may not be less than 10 percent and may not exceed 20 percent,

"(ii) in the case of primary care services furnished by a physician assistant or nurse practitioner, as described in section 1861(a)(2)(k), a percent to be determined by the Secretary that is equal to the percent determined in clause (i) and determined so that the total amount of such payments under this clause and clause (i) is equal to the amount that would have been paid under clause (i) if the applicable percent for such clause was equal to 20 percent, and

"(iii) in the case of physicians' services other than primary care services furnished by physicians in a health professional shortage area located in a rural area (as defined in section 1886(d)(2)(D)), 10 percent.

On page 873, line 20, insert "urban and rural" after "representative of the".

On page 874, line 1, insert ", at least one of whom resides in a rural area" before the first period.

On page 874, line 4, insert ", at least one of whom resides in a rural area" before the first period.

On page 1390, line 22, insert "and that at least one member of the Commission is a resident of a rural area" before the period at the end.

Mr. DASCHLE. I also ask unanimous consent Senator PAUL WELLSTONE be added as a cosponsor.

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

Mr. DASCHLE. Mr. President, as I explained briefly last night, the amendments we are proposing would help rural communities attract and retain doctors, nurse practitioners, and physicians assistants; clarify types of collaborative efforts and joint ventures that are permissible in rural areas; ensure that financial and other assistance is available to help rural facilities adjust to the changing health care environment, and assist rural providers in forming their own health care networks.

I would like to take a bit more time today to explain what each provision in our amendment does.

NATIONAL HEALTH SERVICE CORPS

The centerpiece of this rural health package is increased funding of the National Health Service Corps—one of the most important, respected work force programs in the country.

Why does the NHSC funding need to be increased? Most do not know that the National Health Service Corps Program was nearly eliminated in the 1980's, despite the fact many rural communities are completely dependent upon corps doctors as their only source of physician care.

While the program has been slowly built back up over the last few years, rural America still badly needs more of these doctors.

In my home State of South Dakota there are only 14 National Health Service Corps [NHSC] physicians. However, South Dakota needs 43 physicians in order to eliminate its rural underserved areas. We know that if the corps had better funding, many more physicians would be willing to serve in rural and other underserved areas.

For example, over 4,000 scholarship applications were submitted to the NHSC Program last year, but only 406 awards were made.

The Office of Rural Health in South Dakota tells me that if the NHSC funding was increased, our State would be better able to recruit these critical primary care providers.

This amendment would simply restore funding for the National Health Service Corps [NHSC] to its pre-1980 levels so that those willing to work in rural underserved areas are not denied the opportunities they seek.

ANTITRUST SAFE HARBORS FOR RURAL HEALTH PROVIDERS

This amendment would clarify existing and subsequent antitrust "safe harbors" specifically for rural providers.

A "safe harbor" is merely a statement by the Department of Justice and Federal Trade Commission that if you meet the criteria established in the safe harbor, you don't need to worry about antitrust prosecution by the DOJ, FTC, and private parties.

For example, the DOJ and FTC safe harbor guidelines make it clear that these agencies will not challenge a merger between two hospitals if one of the hospitals has less than 100 beds and has an average caseload of 40 patients. This is an example of safe harbor. All our amendment would do is help rural providers to know how these safe harbors would apply to them.

I know from speaking with rural providers that this type of clarification is badly needed. Rural doctors and hospitals tell me they are hesitant to collaborate, to share equipment, to form joint ventures or to create networks because they fear antitrust prosecution by the Government.

Even though the DOJ and FTC rarely bring antitrust suits against rural providers, the perceived threat of prosecution is inhibiting collaborative ventures and networking among rural providers.

These are exactly the kind of activities we want to be encouraging in rural areas—yet providers are reluctant because they don't have the type of legal counsel that can clarify for them the complicated antitrust guidelines. This provision would provide rural providers with clear, easily understood information about antitrust safe harbors.

I also know that many rural providers are not even aware that these antitrust safe harbor guidelines exist. That is why this provision would have the DOJ, FTC, and the Department of Health and Human Services work together to develop a plan to disseminate this information.

I would like to say one word about what this amendment does not do. The provision would not establish any additional safe harbors for rural providers nor would it give rural providers broad antitrust immunity. I believe as do others that the antitrust safe harbors established by the DOJ and FTC are simply not well understood. They need to be explained more clearly to rural providers.

MEDICARE BONUS PAYMENTS FOR NPPS

This provision would make nonphysician practitioners [NPP's] such as nurse practitioners and physicians assistants practicing in rural underserved areas eligible for the same Medicare bonus payments we already provide to doctors.

As many of you may know, this provision is based on a recommendation from the respected Physician Payment Review Commission [PPRC], which advises Congress on Medicare part B and other issues.

Why does the PPRC think we need bonus payments for NPP's? The answer is simple—we need to do whatever we can to attract primary care providers to rural underserved areas. That's why we already provide bonus payments for doctors providing services in rural areas.

It is also important to remember that many of the same disincentives to relocating to rural underserved areas that exist for physicians exist for NP's and PA's. These include lack of professional peers, lack of health care facilities, and insufficient population base to sustain a practice. Providing stronger economic incentives to locate in rural areas is the one way to overcome these other disincentives.

So, it makes sense to extend the bonus payments to other primary care providers like nurse practitioners and physicians assistants.

Making bonus payments available to them will increase access to primary care services.

Moreover, advanced practice nurses receive only 75 percent to 85 percent of what physicians receive for the same service. These lower payments make it more difficult for NP's to set up independent practices. Extending the Medicare bonus payments to NP's would help to offset this lower payment rate and make it more feasible for them to open up practices in rural underserved areas.

Finally, I want to point out that this provision is budget neutral relative to the Mitchell bill.

The increase in bonus payments for physicians included in the Mitchell bill would be only slightly reduced, and the savings achieved would finance the NPP bonus payment. The NPP's and the physicians would receive the same percentage bonus payments. Our best estimates indicate that both physicians and NPP's would receive 17-percent bonus payments.

RURAL MANAGED CARE DEMONSTRATIONS

We all know that few managed care plans have entered rural areas.

To encourage the creation of these plans in rural areas, this provision would establish a grant program for the development and operation of rural-based managed care networks.

These grant funds could be used for the development of a rural-based managed care networks, for data and information systems including telecommunications, for meeting solvency requirements under Medicare, for the recruitment of health care providers and for enabling services such as transportation and translation services.

The grant program would be authorized at $10 million annually for 1996 through 2000.

Special priority would be given to those plans that would serve rural underserved areas and those that involve rural residents and providers in the planning and development of the managed care network.

RURAL HEALTH CLINIC FUNDING

As Senator ROCKEFELLER clearly explained last night, the Mitchell bill establishes three grant and loan programs to improve access to health care in urban and rural underserved areas.

The first program provides grants for the development of health care networks, sites and services.

The second program provides grants for and loans capital costs such as modernization, renovation, and construction.

The third program provides grants for supplemental and enabling services such as transportation and translation services.

Under the Mitchell bill, rural health clinics could only receive developmental, enabling, and supplemental services funds as part of a consortium of community based providers.

I believe that RHC's, as important providers to the underserved in rural areas, must be given the same opportunities Senator MITCHELL's bill gives other providers to enhance their ability to serve the rural communities that depend on them.

This amendment would allow nonprofit and public rural health clinics to be eligible for the development, capital, supplemental and enabling funds provided under Senator MITCHELL's bill.

I understand the concern that some have raised regarding Federal grants to for-profit rural health clinics. That is why under this provision, for-profit RHCs would only be eligible to receive loans for capital costs.

I cannot overemphasize the importance of rural health clinics in ensuring access to care in rural communities. These clinics serve a disproportionate number of patients that have traditionally lacked access to health care.

A 1994 survey of RHC's revealed that nearly 28 percent of the patients in RHC's are on Medicaid, and 14 percent are uninsured. While 63 percent of the U.S. population has private insurance, only 28 percent of the patients cared for in an average RHC have private insurance.

I would like to tell you about a rural health clinic that I visited in Wall, SD. Wall is a community of about 850 people. The clinic is run by Dave Custis who is a physician's assistant.

Dave has been working in the clinic for the past 10 years. He is a PA practicing alone in the rural health clinic. The physician affiliated with his clinic is in Rapid City, and the physician comes to the clinic only half a day a week.

The clinic was one of the first rural health clinics in the country, opening in the late 1970's. Prior to the clinic opening, no one provider consistently worked in the community.

Physicians had practiced in Wall, but because of hospital closures and other factors, the town was not able to consistently keep a rural health care provider until the clinic opened.

The clinic estimates that between 20 and 30 percent of the population it serves is uninsured. Without Dave and his clinic, these people probably would not receive any health care services, and certainly not preventive care.

Seeking the providers in this and other rural health clinics in my State work tirelessly, often under adverse conditions, has convinced me we need to help these facilities in enhancing their ability to provide care.

In closing, let me emphasize that these amendments build on the strong base Senator MITCHELL's bill provides and they would simply enhance and supplement the rural provisions contained in his bill to ensure that health reform benefits rural and urban areas alike.

I ask unanimous consent the USA Today article that featured Dave's clinic be printed in the RECORD.

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

[From USA Today, Feb. 18, 1994]

IN SOUTH DAKOTA, PROBLEM IS PLAIN—TOO FEW DOCTORS—STATE TYPIFIES THE PROBLEMS OF MEDICAL CARE IN RURAL AREAS

(By Richard Wolf)

Nestled between the Badlands and the Black Hills deep in cattle country, health-care reform is a four-letter word: Dave.

Forget managed competition, employer mandates and a menu of health plans. The ranchers and farmers out here—30 miles from the nearest doctor and hospital—are dependent on physician assistant Dave Custis for their care.

"I do all my own X-rays, I draw all the blood, I give all the shots," Custis says, while juggling his Wall Clinic caseload of colicky infants, frail Medicare patients and occasional emergencies. "We're out here on the front line of medicine, and we don't have the technology to go with it."

The slice of rural America Hillary Rodham Clinton visits today in Lennox, S.D., needs health-care help far more basic than the complex prescriptions now under review in Washington, to solve problems far more life-threatening:

Manpower. Doctors are hard to find and keep, making physician assistants, nurse-practitioners and county nurses a godsend for people in small towns. The nation has one doctor for every 400 people; in South Dakota, it's one for 600.

Distances. When emergencies or illnesses are too much for those front-line medics to handle, it's not unusual for expectant mothers, accident victims or heart-attack patients to travel an hour or two to the nearest hospital.

In the 1940s, South Dakota had doctors in 165 places. Today they're at just 69 locations.

Money. Rising insurance premiums and medical bills take a toll on a population dominated by the elderly, the self-employed and small businesses. Clinics and hospitals struggle to balance books, with lower federal reimbursements.

All those hardships come together in places like Wall, home of Wall Drug Store. Billboards all along Interstate 90 tout the store's 5-cent coffee and buffalo burgers.

Custis sees 6,000 patients annually and sends some an hour away to Rapid City. The clinic, which lost its lone doctor in 1991, turned a $985 profit last year—far short of the mark needed to get Custis some help.

"If we didn't have 'Doc,' we would be lost," says Betty Dunker, 43, who visits Custis for anything from a bad cold to treatment for multiple sclerosis. "He'll make house calls."

That's the kind of care required in rural America:

It's home to one-quarter of the U.S. population, but more than one-half of all Americans living in areas officially designated as short on doctors.

More than 14 percent of rural residents go without insurance for at least a year; 18 percent of farm families lack insurance.

The South Dakota story is like others. About 100,000 residents, one-seventh of the population, go "bare"—without insurance. Two-thirds of the state has a shortage of primary care.

"Health care is tentative. You can't count on it," says Sen. Tom Daschle, D-S.D., as he pilots a plane to Wall to meet with ranchers.

At the Wall Clinic, mammograms are a road show from Rapid City, a dentist stops by once a week, and orthodontia is offered every six weeks.

Thirty miles east in Philip, two doctors staff a clinic, 20-bed hospital and 30-bed nursing home for the area's 3,500 people. They're the only doctors between Pierre and Rapid City, a distance of about 150 miles—and their stories illustrate the manpower problem.

George Mangulis, 71, is a Latvian-born doctor with a medical degree from Germany who has hunkered down in western South Dakota for four decades. Over the years, U.S.-educated doctors recruited to help him have come and gone.

"We are like a transit station," Mangulis says. "We are struggling about how to make the ends meet."

Coenraad Klopper, 46 is a South African doctor recruited in 1991 from Saskatchewan after battles over residency and certification. Unlike his predecessors, he has remained, but, as Mangulis reduces his hours, Klopper is overworked.

"We do anything which comes along," he says. "Out here, you're it. You don't have any off time. You can't go anywhere, you can't do anything."

To these and other rural Americans, health-care reform holds both promise and peril.

Among the promises are incentives aimed at boosting the number of medical school graduates who enter primary care, placing them in rural areas and expanding the roles of non-physician providers.

Among the perils are additional cuts in Medicare, which could further reduce already restrictive rural reimbursement rates, and a system of mandatory consumer purchasing groups that could prove difficult to implement in sparsely populated states.

Those new alliances—plus mandates that employers must provide insurance, and price caps on insurance premiums—are supposed to create President Clinton's vision of "managed competition."

But in Wall, where there's just one physician assistant and few insurance plans, there's no competition to manage.

Says Daschle, a defender of the Clinton plan: "There is a realization that you can't run South Dakota's health care program like New York or Florida would run theirs."

Mr. DURENBERGER. Mr. President, there is no single issue that unites the concern of rural Americans more than

access to quality health care. It is one of the crucial components of rural quality of life, which keeps and attracts people to small towns. A major obstacle is the financial squeeze faced by many rural hospitals and physicians because the reimbursements from Medicaid and Medicare are often much less than the cost of the specific medical procedures. These inequities are what I have been working to resolve during my years in the Senate.

Approximately 27 percent of the Nation's population lives in rural America. However, the rural population is disproportionately poor, experiences significantly higher rates of chronic illness and disability, and is aging at a faster rate than the Nation as a whole. In rural areas, the elderly accounted for 13.8 percent of the population, but 22.5 percent of all physicians visits.

The Medicare payment has had a negative effect on many rural hospitals. A CBO report concluded that payments to rural hospitals have been much lower, relative to their costs, than payment to urban hospitals. And there is a constant threat of closure of rural hospitals, clinics, and other rural health care providers. Since 1986, 14 rural hospitals have closed in Minnesota and another 8 are identified as high financial risk institutions.

The goal of this amendment is laudable. I believe my colleagues look at this as a means to improve access to quality health care in rural America. But it falls far short of addressing the inequities in current law and perpetuated in the Mitchell bill.

RURAL PHYSICIANS

If we want to help rural physicians, we should not burden them with more Medicare cuts and then on top of it mandate that they accept the Medicare rate as payment in full. The Mitchell bill gives physicians two choices: Either accept Medicare payment in full or do not treat Medicare patients at all. It eliminates their ability to help meet their costs by billing those patients who can afford to pay more. Current law, allows physician to balance bill up to 110 percent of the Medicare allowable charge.

The Physician Payment Review Commission [PPRC] reported to Congress that Medicare is now paying physicians only 59 percent of what private insurers pay. And health reform takes another chunk out of Medicare payment rates. What impact will this have on beneficiary access to physicians—especially in rural areas? To date, we have seen a number of physicians already refuse to accept new Medicaid patients because payment rates markedly fell.

RURAL HOSPITALS

If we want to help rural hospitals we should eliminate the need to shift costs to make up for Medicare's underpayment. In rural areas and the poorer areas of our cities, this is a recipe for disaster because they lack a large base of private payers to make up the loss.

My colleagues from States with rural areas will want to take a look at this chart. For United Hospital, which serves a largely middle-class population in St. Paul, we see that 42 percent of the patients are on Medicare or Medicaid. The loss that the hospital suffers on those patients can be passed on to the larger population of patients, nearly 58 percent, who pay themselves or have private insurance.

Fairview Ridges Hospital in Burnsville, which serves a suburban, upper-middle-class population, has a much easier time absorbing Medicare's underpayment since it only accounts for 14.4 percent of patients and private insurance account for nearly 80 percent.

But look at what Medicare cuts do to a rural county hospital in northern Minnesota. The Tri-County Hospital in Wadena has 70 percent of their patients paid for through Medicare and Medicaid. How is this hospital going to make it? They have a mere 27 percent of their patients in private plans and another 3 percent who self pay. Where can Tri-County shift its losses from the Government-run program? Twenty-two percent of the population is below the poverty level.

This rural hospital is not going to make it unless Congress does something about the Medicare Program. Universal coverage will do nothing for them. Reforming the Medicare Program, on the other hand, will give them the chance they need to survive and continue to serve that area.

RURAL MANAGED CARE

Mr. President, this amendment seems to recognize that need on the surface. It provides grants to develop managed care networks in rural areas if they incorporate the Medicare population. But if we want to help rural managed care develop—first, we must address the payment problems. This amendment tells the Secretary to study the payment problems—without even requiring a timetable to report back. It's the long-term instability of payment that is a problem for rural areas.

What good will grants do if we fail to address the way we pay private health plans for accepting Medicare beneficiaries? Even if we help networks develop, why will they want to seek to enroll Medicare beneficiaries? The payment is now tied to the historical cost of fee-for-service care county by county.

Rural areas are plagued by access problems. Yesterday, my colleague from Nevada, Mr. REID told us that some counties in his State do not even have a physician or have only one. Obviously, we can expect some low historical patterns of utilization in these counties. For example, Medicare will pay plans serving residents of White Pine County, NV, $251.10 per month. Yet the national average per capita cost is $378.13 per month. And, the payment rates vary more than 300 percent nationally. This does not leave much question regarding why plans may not be attracted to serve Medicare beneficiaries in this area of Nevada. Providing grant money alone to set up in the area wouldn't do it either. More importantly, paying plans based on the fee-for-service cost of a rural area with little access to quality care will not support the formation of managed care networks.

Today's Medicare managed care plans flock to high-cost areas where they are doing very well—because we pay them based solely on fee-for-service cost—not based on their cost in a more efficient system.

The only way to help rural America is to support rural America. To pay the cost of care—not to discount it and expect rural providers to make it up elsewhere. Inherent cost-shifting will not attract efficient care delivery. The answer is to give every American the opportunity to purchase a private health plan. In the underlying amendment, the Mitchell bill does it for the Medicaid population. But why is Congress choosing to deny seniors and the disabled the very same opportunities as the rest of America? The problems of rural America will be better addressed when all individuals are insured through the private system.

We can do so much more. Both this bill and this amendment fail to send a strong message to rural America. It fails to say "Washington cares about your problems and wants to help ensure access to quality health care."

Only a commitment to reforming all parts of the health care system, the publicly paid and the private, can we give rural America a fair opportunity.

Mr. DORGAN. Mr. President, I rise in strong support of the Daschle amendment on rural health care. America's rural communities have unique health care needs that we must address if we ever hope to achieve truly national health care reforms. The rural health amendments offered by my good friend and colleague TOM DASCHLE will significantly improve health care in rural America.

First, we must make sure our rural communities have the medical professionals necessary to provide high-quality care: 85 percent of North Dakota's counties do not have enough health care providers to provide adequate care for the county's residents; 13 North Dakota counties had no physician residing in them in 1992; and 2 counties had neither a hospital or a clinic.

By increasing funding for the National Health Service Corps [NHSC], this amendment will encourage individuals to join health care professions and work in areas with shortages of health care providers. This amendment will provide scholarships and student-loan repayment programs for more

than 14,000 physicians, nurses, and physicians assistants over the next 10 years.

North Dakota's small communities are spread far apart. People rightfully worry how they are going to get health care in an emergency. So, second, this amendment will establish grant programs to allow States to develop rural emergency medical systems. I have cosponsored similar legislation in the Senate and I am encouraged that States will have these grants available to create or enhance air medical transport systems that effectively will bring rural residents closer to critical lifesaving treatment.

Third, this amendment will provide grants for telemedicine programs to bring sophisticated medicine to small-town health care providers. A physician in Bismarck, or even across the country, literally could read the x ray or analyze the heartbeat of a patient at a clinic 100 miles away. These grants will bring telemedicine hookups to more North Dakota communities.

Fourth, health care reform must expand the role of nonphysician practitioners and I am glad this amendment will help tear down the barriers that advanced practice nurses and physician assistants face when they try to set up practice in rural areas. In some North Dakota communities, these medical professionals provide the only health care available, and we ought to help them.

North Dakota has one of the few successful rural health maintenance organizations [HMO] in the Nation, the Heart of America Health Plan. This health care plan has been extremely successful in delivering high-quality care to the residents of Rugby, ND, in a very cost-effective manner. A fifth provision of this amendment will fund development of more rural managed-care organizations like Heart of America.

Sixth, antitrust provisions in this amendment will encourage partnerships between urban and rural providers to expand medical services available to rural communities. Many collaborative ventures and mergers already have expanded access to health care services in North Dakota. This provision will help clear the way for other projects that expand access in rural communities.

Health care reform must address the needs of rural America. This amendment will go a long way to ensure that rural Americans receive the High-quality health care we all expect. Mr. President, I urge my colleagues to support the amendment.

Mr. CAMPBELL. Mr. President, it is with great pleasure that I cosponsor the rural health amendments offered by Senator DASCHLE. The majority leader's bill includes a substantial set of rural health provisions, and he should be commended for trying to ensure that rural communities are included in health care reform. The Daschle amendments build on the base set in the Mitchell bill to expand much-needed health care services in rural communities.

Rural health care issues are especially important to me and my State. More than 17 percent of Colorado residents live in rural communities. Rural residents, whether they have health insurance coverage or not, are at a particular disadvantage when it comes to receiving health care. The problem for rural residents is primarily one of access.

These amendments would increase access by offering incentives for health care providers to locate in rural areas or expand current services. Managed care programs would be offered developmental and operational grants to encourage rural-based managed care networks. The bonus payments now available to doctors would be extended to advanced practice nurses and physicians assistants, vital providers of health care in rural areas.

The National Health Service Corps scholarship and loan repayment programs would be expanded to encourage more medical students to become primary care physicians. This program carries an obligation to provide 1 year of medical services for each year of educational assistance. Although the National Health Service Corps is an important source of primary health care professionals in underserved areas, this program has been drastically cut back in recent years. The proposed amendments would increase funding for this valuable program and boost the number of much-needed health professionals serving rural areas.

More providers and more clinics mean greater access to care. By providing greater access to health care services to rural residents, we can encourage preventive health care. The resident who has to drive 50 miles to see a doctor most likely will not do so until he or she is very sick.

If a doctor is only 10 to 20 miles away, a mother is more likely to take her child in for a measles shot, a diabetic is more likely to get treatment before going into a diabetic coma. Preventive care saves money by treating a condition before it exists or before it advances to a more serious stage that is more costly to treat.

And so, Mr. President, it is with great pride that I add my support to the Daschle rural health amendments. Rural areas need different things from health care reform than urban and suburban areas. Health care reform presents an opportunity to improve health care in rural areas. These provisions seek to supply greater access to care in underserved rural communities. Americans deserve to have the same access to health care as their Representatives in Congress do, regardless of where they live.

Mr. SIMPSON. Mr. President, rural health care is experiencing a renaissance of interest in Congress. In fact, even frontier health care—a term several of us coined for what we have in Wyoming and other similarly situated States—is even gaining the attention of policymakers. I want to join Senator STEVENS for acknowledging earlier today that the States of Alaska, Montana, and Wyoming have unique needs. Our States have much in common regarding the delivery of health care to our constituent populations. I want Senator STEVENS to know that I will most gladly join his Frontier Health Caucus.

The last few years have witnessed an alarming number of hospital closures in rural areas, the loss of physicians to more sophisticated and profitable urban settings, and a shrinking pool of allied health and community service professionals in virtually every field. At the same time, the population of rural America is growing older and more frail—requiring more and higher levels of service.

Clearly, we in Congress have reason to be seriously concerned about issues of access to health and supportive services in rural and frontier regions. Our challenge is to craft a public policy response that is appropriate to all rural regions, including—and particularly from my perspective—frontier Wyoming.

I am pleased to see the inclusion of many provisions pertaining to rural health care in this bill. As Senator GRASSLEY noted last evening, many of these provisions were recommended previously by the bipartisan rural health care task force. This is one area of health care that has always been bipartisan, and it is important for all of us to work together in furthering our main objective—bringing the highest quality health care to rural and frontier America.

However, I did notice that "frontier" is not mentioned anywhere in Senator MITCHELL'S 1,400 page document. All of us from rural and frontier areas—including both Senators from Alaska—worked very hard in the Republican health care task force to get our message across that rural and frontier States have unique needs. Finally they heard us. Everyone on the task force finally understood that rural health care must be addressed within the context of the health care debate—and, I was very pleased to see that "frontier" health care was given a distinct status and definition in both the Chafee and Dole bills.

Rural America, as we have heard today is quite diverse and complex. Although close in population, Vermont and Wyoming are vastly different in terms of heritage, resources, economic base, and geography. In fact the entire State of Vermont could fit into two of Wyoming's southwestern counties.

Iowa, with its urban centers and small towns sprinkled every 10 or 20 miles in between is considered by Washington, DC regulators to be the very epitome of a rural state. Wyoming clearly does not fit that model. No indeed. Not in the land of high altitude and low multitude—where our major towns are far apart and the people are scarce in between. Yet my colleagues here in Washington seem to believe that if a program or a rule or regulation will work in Iowa, then it will work anywhere rural, including Wyoming. We have been hearing a lot about rural health care today so I wanted to come to the floor and talk about what kind of health care we have in Wyoming.

In Wyoming, we are talking about nearly 98,000 square miles with an average population density of less than five people per square mile. Twenty percent of the population is in either Cheyenne or Casper which each have about 50,000 people. The remainder of the State has a density of less than four persons per square mile.

Wyoming has 26 acute care hospitals or one hospital for every 3,600 square miles—or one hospital for every 18,000 people. The population per hospital is why so many of them are on the ropes financially. The area covered is why they are medically essential.

We need basic providers in Wyoming. With only 26 hospitals, no federally qualified community health centers, and only 5 rural health clinics, we are in desperate need of just basic providers. For example, at the present time, the Basin-Greybull area in northwest Wyoming has been reeling over the past year from the effects of a hospital closing between those two towns. The county hospital district in this area has established a rural clinic located at the closed hospital and has just applied for rural health clinic designation for the clinic. This designation would allow the clinic to receive cost-based reimbursement for each of the Medicare-Medicaid patients seen there.

This rural clinic designation is much easier to obtain than the federally qualified health center designation. Still we only have five rural clinics, but hopefully more of them coming in the future. This type of clinic would go a long way for us in treating people in the basin area and in most areas of Wyoming, especially for emergency services, which are always so desperately needed in rural areas.

What primarily concerns me about the rural provisions contained in the finance bill, and the Mitchell bill is that they do not contain enough flexibility for frontier States. My colleagues here in Congress seem to have this know best approach to rural health which has limited flexibility. This lack of flexibility saps the vitality, creativity, and resourcefulness from the very programs that have been developed to help rural areas, and may drain funds from other areas that local policymakers have identified as more pressing priorities. In a State like Wyoming, with so few resources at its own disposal and so many urgent needs, this lack of flexibility can be devastating. When we look at these bills, we are looking for greater flexibility in obtaining needed Federal grants and loans. For example in the Mitchell bill, under Subtitle E, Health Services for Medically Underserved Populations, there are much needed grants available for the planning and development of networks of providers and plans. These grants can be used for the expansion, development, and ongoing operation of health delivery sites. Direct loans and grants are also available for capital costs including the modernization, conversion, and expansion of facilities. There is a list of entities that are eligible to receive these grants and loans—and lo and behold, most of the eligible entities are located in urban underserved areas. By limiting eligibility, this section has the perverse effect of excluding the very communities that are most in need of capital and infrastructure funds. We need a flexible definition of eligible entities included in this section, if this bill is going to accomplish assisting all underserved areas—not just urban underserved areas.

Finally, I want to briefly discuss telemedicine and the promise it holds for rural and frontier areas. I was particularly heartened to see that demonstration projects for telemedicine are included under the Mitchell bill as they are under the Dole bill. Physicians and nonphysicians in Wyoming could benefit greatly from the use of telemedicine. They could be connected through interactive video for consultations with hospital and medical school staff from across the country. A solo practitioner would not feel as isolated while practicing in a rural area if he or she knew he or she could consult with other physicians on a particular case. In addition, physicians in rural areas would not have to travel to educational seminars and conferences if they could receive continuing education training through computer video. I believe telemedicine is the future for rural areas and that we should do everything we can to promote its use. Rural areas need start-up moneys and capital for planning telemedicine systems and for the purchase of computer hardware, software, and interactive video equipment. The moneys included in both the Mitchell and Dole bills would go toward these types of worthwhile projects.

I wholeheartedly support all of our bipartisan efforts in Congress to implement rural health care policies that are responsive to the very special needs and circumstances of all of the rural, including frontier States, which we represent.

Mr. WELLSTONE. Mr. President, I am delighted to support the amendment of my colleague from South Dakota.

Nearly half the population of Minnesota and nearly half the people in the Nation live outside our major metropolitan areas. Often when we discuss health care reform we focus on urban communities because that is where the high-technology subspecialty care is found. But health care in rural American is an essential link in our health care system. We need a strong rural health care system to have a health care system that works for all Americans.

When we discuss universal care we must remember that access to a health care provider is a necessary component of that universality. In a growing number of rural areas there is shrinking choice of provider and it is increasingly difficult to find a doctor or other health care provider in many rural areas. People in rural Minnesota tell me they really want to keep their doctor in town.

The revival of the National Health Service Corps that this amendment calls for is an important emergency measure while we rebuild the primary care system in rural America.

We must also support the work of health care providers in our rural communities who are working to organize a revitalization of rural health care. There are many rural physicians and health care professionals in Minnesota who are leading the way.

These are real people who have committed their lives to this effort. I think of Dr. Ray Christensen, who lives and practices in the town of Moose Lake, MN. Dr. Christensen is a life long rural resident and a leader in rural health care in Minnesota. And I think of Terry Hill, executive director of the Northern Lakes Health Care Consortium in Duluth, MN. They are both working on recruitment of primary care physicians to rural communities and have had some important successes.

Two important examples of success achieved by the rural health community are Grand Marais, MN, where a few years ago the hospital was in danger of closing and with a lot of work has been turned around. It is now a growing concern. And Silver Bay, MN, where a rural clinic was near closing and has been kept open. Both of these victories for rural health have been enabled by the ongoing support from their local communities and health care providers in the region.

We must also support the work of those medical schools that have taken on the challenge of training rural physicians. Dr. Ron Franks, dean of the Medical School at the University of Minnesota, Duluth has done tremendous work in this area. At UMD they understand the importance of recruiting medical students from rural communities. During their medical education they get these students into

rural clinics to see what rural practice is like. And they help the students develop contacts in the rural health community to support them in their rural practices.

This amendment also gives needed support for nurse practitioners and physician assistants with more adequate reimbursement, by allowing some of them to receive Medicare bonus payments at the same rate as physicians providing primary care in underserved areas.

Another issue that is addressed by this amendment is the important concern of rural residents that they do not want the rural health care system taken over by urban based insurance companies. In Minnesota, there is growing concern that urban based insurance companies are not sensitive to the real needs of the rural population. We have to make sure these rural voices are heard.

In this amendment, steps are taken in this direction by increasing the rural representation on boards created in the Mitchell legislation. We must listen to rural physicians, nurses, physician assistants and nurse practitioners, and rural consumers. They are in the trenches every day making our rural health care system work and they have a lot to teach us.

This amendment does not solve all the health care problems facing rural America but it makes a start. I hope we will all pledge that as we continue our efforts to reform the health care system we will set the same standards for rural health care that we do for ourselves here in the Senate—all rural Americans should be covered with a decent benefits package, all should be ensured accessibility of care not just insurance, people should be guaranteed that needed care is affordable and they should have a choice of health care provider.

I urge my colleagues to support the Daschle amendment.

Mr. MOYNIHAN. Mr. President, I believe the time has come to vote.

VOTE ON AMENDMENT NO. 2564, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the question is on amendment No. 2564, as modified, by the Senator from South Dakota [Mr. DASCHLE].

Mr. MOYNIHAN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN] is necessarily absent.

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

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—94

Akaka	Feinstein	McConnell
Baucus	Ford	Metzenbaum
Bennett	Glenn	Mitchell
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Murray
Boxer	Harkin	Nickles
Bradley	Hatch	Nunn
Breaux	Hatfield	Packwood
Brown	Heflin	Pell
Bryan	Helms	Pressler
Bumpers	Hollings	Pryor
Burns	Hutchison	Reid
Byrd	Inouye	Riegle
Campbell	Jeffords	Robb
Chafee	Johnston	Rockefeller
Coats	Kassebaum	Sarbanes
Cochran	Kempthorne	Sasser
Conrad	Kennedy	Shelby
Coverdell	Kerrey	Simon
Craig	Kerry	Simpson
D'Amato	Kohl	Smith
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Exon	Mack	Wofford
Faircloth	Mathews	
Feingold	McCain	

NAYS—4

Danforth	Gregg
Durenberger	Roth

NOT VOTING—2

Cohen	Mikulski

So the amendment (No. 2564), as modified, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. As I understand now, the Republicans will offer an amendment.

Mr. MOYNIHAN. Yes.

Mr. DOLE. Mr. President, I just wanted to clarify, it is my understanding under our sort of loose arrangement here the Democrats offered the rural amendment. Some of us may still want to speak on that amendment, because we tried to accommodate a couple of colleagues who had to catch a plane, so there may be some speeches after the fact. I think Senators MACK and COATS are prepared to offer their amendment. I wonder, if they wanted to lay their amendment down, if I might be permitted to speak for 5 minutes on the amendment we just passed.

AMENDMENT NO. 2568

(Purpose: To assure that decisions critical to the health and well-being of all Americans be made with public knowledge and not in secret)

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes the Senator from Florida.

Mr. MACK. I have an amendment to send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK] for himself and Mr. COATS, proposes an amendment numbered 2568.

Mr. MACK. 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 129, strike line 13 and all that follows through line 16.

On page 263, insert between lines 15 and 16 the following new section:

SEC. 1604. APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT AND THE PROVISIONS OF TITLE 5, UNITED STATES CODE.

(a) FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to any entity that—

(A) is established by or pursuant to this Act or is established or required to be established by an entity created under this Act; and

(B) is an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of the Federal Advisory Committee Act shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such specified provision (or all provisions) of the Federal Advisory Committee Act shall not apply to such entity.

(b) TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of title 5, United States Code, shall apply to any board or other similar entity that—

(A) is established by or pursuant to this Act; and

(B) is not an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of title 5, United States Code, shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such provision (or all provisions) of title 5, United States Code, shall not apply to such entity.

On page 605, strike line 3 and all that follows through line 13.

On page 1409, strike line 1 and all that follows through line 3.

Mr. MACK. Mr. President, I know that there will be quite a discussion on this amendment which really has to do with the issue of secrecy and the number of commissions. The Mitchell proposal, in fact, exempted certain of the commissions from public scrutiny. This amendment goes to the heart of that issue, and will strike that exemption.

I yield the floor.

Mr. MOYNIHAN. Mr. President, may I just say briefly to my friend from Florida that I am sure he will find a good deal of support on this side of the aisle for his amendment, and look forward to the debate.

Mr. DOLE. Mr. President, we have just adopted, I guess by an overwhelming vote, an amendment dealing with rural health care. Some of us did not have an opportunity to speak because

we were accommodating a couple of our colleagues who had to catch a 12 o'clock plane.

Mr. President, I commend my colleague, Senator DASCHLE from South Dakota, for bringing the issue before the Senate because health care for rural Americans is a very important issue.

Mr. President, on January 21, 1993, I was in this Chamber and I laid out the initiatives that I hoped Congress would accomplish in the 103d Congress. On that day I said I was going to introduce a comprehensive health care reform proposal because of my strong belief that responsible health care reform was going to have to be drafted on a bipartisan basis with the support of at least 80 or 90 percent of the Senate. I have not given up on that effort either. However, I did say January 21 that there was one area I was concerned about that I would be working on that we could not afford to delay, and that was health care reform for rural America.

So I on that day, Mr. President, I introduced the rural health care bill to improve access to health care in rural America, and that bill received broad bipartisan support.

The point I would make is that I am happy to see that we have the groundswell for support for rural health care. Rural Americans make up about 20 percent of the population. Contrary to what some may believe, rural Americans are as much of a diverse group of Americans as any living in other parts of the country. That is why, when proposing health care reforms, rural Americans are no more likely to adopt a one-size-fits-all model than are Americans living in any other part of the country.

Many of these provisions we have now put in the Mitchell bill, if adopted, are in the so-called Dole-Packwood bill which was sponsored by 38 Republicans along with myself and Senator PACKWOOD.

Again, I say it is not a partisan bill. It is called The American Option. We still have to attract colleagues on the other side of the aisle to this bill. Many of these provisions are quite technical, but I think they follow along. In fact, probably the amendment that we just passed would supplement some of the things we have done in our bill.

So, while we do have our fair share of disagreements in this Chamber on the issue of health care reform, I am happy to see the groundswell of support to make rural health care better and more accessible.

Rural Americans make up about 20 percent of the population. And, contrary to what some may believe, rural Americans are as diverse a group as Americans living in any other part of the country. That's why when proposing health care reforms, rural Americans are no more likely to adapt to a one-size-fits-all model than are Americans living in any other part of the country.

Mr. President, Senator PACKWOOD and I, along with 38 of our colleagues have incorporated many of these provisions in the American option plan that we introduced on August 9. In that bill, we give special consideration to rural Americans.

Mr. President, as rural Americans know all too well, access to health care providers can be just as much of a challenge in rural America as is cost. That is why in our bill we have special provisions to improve access to health care in rural America.

Many of these provisions are quite technical, but let me just summarize what they would accomplish.

More primary care: The way Medicare reimburses medical education would be changed so that young physicians can be trained in places like community health centers, or other out-patient settings, where more primary care providers are likely to be trained.

Improved reimbursement for nurse practitioners and other nonphysician providers to encourage more of these providers to practice in rural areas.

Better access to rural hospital by extending payments for Medicare dependent hospitals through 1998. The Dole-Packwood proposal recognizes that these payments may make the difference between keeping a hospital's doors open or not.

Establishment of telecommunication grants in rural areas, so that providers practicing in these areas have better information and the ability to communicate with providers in distant areas.

Mr. President, take for example a case involving a doctor in Hays, KS. He was stumped by a young boy experiencing paralysis of the right side. Unlike stroke victims, the paralysis was sporadic and difficult to diagnose. During one such episode, the doctor and patient used a new telemedicine link-up site. Two hours later, a specialist 266 miles away in Kansas City diagnosed the condition and prescribed the proper medication. The boy is now back on his feet again, all without leaving his hometown.

No doubt about it, two-way interactive video, through telemedicine provisions in this amendment, as well as in the Dole-Packwood bill, improves health care and can save lives.

Mr. President, I support this amendment because of provisions such as this. The Dole-Packwood bill would also help rural Americans through many of its insurance market reforms.

For example, rural Americans are more likely to be self-employed or work for a small business that does not provide health insurance. In fact, over 90 percent of the businesses in my home State of Kansas have fewer than 10 employees.

Under current law, individuals who purchase their own insurance are not able to deduct the cost of that insurance. The Dole-Packwood bill would phase in full deductibility of health insurance so that those who are self-employed or who buy their own insurance are treated the same as those employed by large businesses.

I would note that the bill introduced by the majority leader would only allow for a 50-percent deductibility of insurance premiums by the self-employed. For those buying their own insurance, the difference between 50-percent deductibility and 100-percent deductibility may greatly influence the decision to purchase insurance or not.

Mr. President, I ask unanimous consent that a list of provisions in the Dole-Packwood bill that specifically target rural areas be printed in the RECORD.

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

PROVISIONS IN DOLE-PACKWOOD PROPOSAL SPECIFICALLY TARGETED TO RURAL AREAS

1. Extend Essential Access Community Hospital program and Rural Primary Care Hospital program (E.A.C.H./R.P.C.H.) to all states. Currently only seven seven states have these grants available to them. The purpose is to enable these smaller hospitals to continue in their mission to provide primary care services to the residents of rural areas.

2. Better access to rural hospitals by extending payments for Medicare dependent hospitals through 1998. The Dole-Packwood proposal recognizes that these payments may make the difference between a hospital keeping its doors open or not.

3. Expand the Medical Assistance Program to all states. Currently, this program is limited only to the state of Montana—a state which has had a lot of success assisting small rural communities to establish medical facilities.

4. Non-refundable tax credits for health care personnel who establish practices in medically underserved communities.

5. Improved reimbursement for nurse practitioners and other non-physician providers to encourage more of these providers to practice in rural areas.

6. Federal funds available for the development of health care networks in underserved rural communities. Grants and low interest loans would assist with resources needed to develop rural health care facilities.

7. States may designate medically underserved areas which will then receive special considerations, including service from health plans in adjoining geographic areas, increased compensation for health services, and federal assistance for development of health care services.

8. Establishment of telecommunication grants in rural areas, so that providers practicing in these areas have better information and the ability to communicate with providers in distant areas.

9. Provides resources for medical transportation for rural and frontier areas.

10. Upgrades the federal office of rural health to increase the attention to rural health care needs in the federal establishment.

11. More primary care: the way Medicare reimburses medical education would be

changed so that residents can learn in places like community health centers, or other outpatient settings, where more primary care providers are likely to be trained.

12. Increased federal support for primary care services for groups most likely to be uninsured or high risk: childhood immunization, maternal and child health, breast and cervical cancer prevention, HIV early detection, tuberculosis prevention, and health care for the homeless.

13. Increase support for public health service programs, including community health centers, migrant health centers, and federally qualified health centers.

14. Prospective payment assessment commission (PROPAC) will conduct studies and make recommendations on ways to improve access to health care for vulnerable populations in rural areas.

Mr. DOLE. I thank my colleague from Florida, Senator MACK, for letting me intervene during his debate.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator GREGG.

Mr. GREGG. Thank you, Mr. President.

Mr. President, I wanted to address the Senate generally on the issue of health care reform. We heard a tremendous amount of discussion about the issue of health care reform over the last few days. I think it has been extremely informative and worthwhile as we have tried to digest and understand this incredibly complex document called the Clinton-Mitchell bill.

The implications of that bill for not only health care delivery in this country, but actually for the country itself as it moves into the next century, are overwhelming and very pervasive.

I want to talk a little bit about the philosophy of the health care reform effort as represented by the Clinton-Mitchell bill, and by the attempts put forward by Senator DOLE, and Congressman ROWLAND, and then talk a little bit about the specifics of what this bill does in the area of impacting States' rights and State's obligations because it is overwhelming in its effect on States and how they are going to function as we go into this next decade, should it be passed.

We started out here as a Congress and as a people with the leadership of the President and the First Lady, which I certainly commend, in the area of saying to the American public that the health care system of this country needs some repair.

There was set out a series of goals, and amongst those goals I think there was general agreement; an agreement that we should extend coverage, an agreement that we should increase quality, and an agreement that we should control costs. I think we also understood that in trying to reach those goals, they were inherently in conflict to some degree.

It is difficult, for example, to control costs while expanding coverage and to control costs while increasing quality. But still, these were very substantive, very appropriate goals for our Nation to pursue, and for this Congress to try to address as we look at the health care delivery system.

The President and his people sat down, the First Lady leading the exercise, and it was sort of an exercise. And 500 or so people met in secret for an extended period of time. They came forward with this large opus called "The Clinton health care bill." It was a bill which put forward a certain philosophy, not only of how health care should be delivered in this country, but actually how Government should function in this country.

When you look at this health care debate, you have to recognize that it goes beyond the issue of health because when you are dealing with 14 percent of the American economy, you are talking about impacting not only everybody's life as they pursue it, as to whether or not it is a healthy lifestyle or a non-health lifestyle or how they are cared for; but we are talking about a large percentage of Americans' financial well-being, and the manner in which the economy of the country reacts to that financial well-being, especially the relationship of the Government to the financial well-being of individuals, and the size of the Government specifically as it relates to the individuals, as it relates to the Nation as a whole and its percentage of absorption of the gross national product.

So we had in this whole debate from the beginning, not only a desire to reach these goals of coverage, quality, and cost control, but we had an underlying philosophical debate in trying to reach these goals which involved the question of how we govern ourselves as a society.

There is no question in my mind but that in the President's proposal, which has basically borne these additional proposals which we see today in the area of the Clinton-Mitchell plan or in the Gephardt proposal, but in these proposals we see a philosophy of government which subscribes to one set of values. Whereas, in proposals set forth by Senator DOLE, we see here, having been presented in this House with 39 sponsors, Senator NICKLES or Senator GRAMM, we have a different philosophy, and a different approach.

I think it is important to analyze or talk at least a little bit about these philosophies before we make a decision on this bill, because which philosophy we decide to ascribe to is going to clearly impact not only the delivery of health care and the quality of health care in America for the foreseeable future and for generations to come, but it is going to dominate the quality of lifestyle in the area of the relationship of individuals to Government, in the area of tax policy, in the area of the size of Government, and in the area of employment and who employs who, for decades to come.

Obviously, the philosophy put forth by the administration, by President Clinton and by Mrs. Clinton, is one that basically arises from the belief that Government knows best and that Government can be a dominant force in our life and should be the dominant force in our lives in determining public policy and how public policy is pursued.

That has been a philosophy that has been, obviously, not only strong but, to a significant degree, successful in our country for an extended period of time. I remember sitting on the floor of the House one time and expressing some frustration about a very important piece of legislation coming through, and the size of the legislation, and the effect it was going to have on the capacity of us to remain a productive society, because it was going to take so much in the way of Government activity to take over the private sector by such a large degree. At the time, a very thoughtful and knowledgeable Member of Congress, who had served many more years than I, came up to me, and he knew of my frustration, and he said to me, JUDD, just remember this: All government moves to the left." There is certainly no question about that, all government does move to the left. It is the question of how fast and how far it goes to the left.

In this case, what the Clinton administration has proposed and what the Mitchell bill carries forward is a giant leap forward to the left, a giant expansion in our Government activity as it intrudes into the private sector, as it intrudes into individual lifestyles and into, specifically, the health care delivery of the American people. And this is not something that is unique to this time. This is a continuum of events that has occurred. If you look at it in a historical perspective, in my opinion, it is a logical continuum of events, and it really represents one of the key strains between different philosophies and within different cultures, especially democratic cultures, throughout this century and the prior century.

If you trace it back, I suppose you would go back to the French Revolution and our own Revolution being the two defining events which set the course of action where you had basically the philosophy of the politics of the state versus the politics of the individual.

You had Marxism being the ultimate expression of the politics of the state, which arose in the 19th century, and in the 20th century was totally discredited. But as the concept of the politics of the state evolved from decade to decade—or devolved, as the case was, certainly in the area of Marxist philosophy—you ended up in the late 20th century coming to something in democracies which is basically the politics of dependency. Essentially, the

politics of dependency says that you structure a government around a philosophy that says you can get elected to a position if you create enough people that are dependent on the Government so that they are inclined to vote for you because their dependence is tied to getting their support through the government, either direct or indirect.

That got sort of coupled with a politics of Populism, as we went through this century—Populism being defined in a lot of different manners, but essentially it says you can get a free lunch. That is essentially what Populist politics is about. It says that somebody else will pay for a benefit, do not worry about it; we will promise you the benefit. Somebody else will pay for it, and that is usually someone who represents an easy target, either an ethnic or financial, group, that is, either a rich person or an ethnic group. We are going to take from them, and we justly have a right to take from them, because they have abused the system, and we are going to transfer it to you, the individual, who will be the recipient of the Populist politics.

Populist politics has always had a strong stream in American political thought throughout our time. When you couple Populist politics with dependency politics, you have a very effective force for political success and political elections—Huey Long being probably one of the best examples of that in our history, and one of the most egregious examples, also. That is not to say that all of it is Huey Long-type politics, but clearly that is the ultimate caricature of where those politics go.

On the other side of the coin, you have the politics of the individual as expressed, obviously, by John Locke, but carried forth through our own Constitution through our Founding Fathers who believe very strongly that it was the individual who carried the force within the society, and there was a responsibility that individual took on and pursued, and the government had a role, but the role was prescribed to very defined areas. And the more freedom and rights we gave the individual, the more success the individual would be and, as a result, the more successful and the more prosperous society would become. That could also be carried to its extreme. But in the essence of this debate are those two core philosophical approaches: the politics of dependency versus the politics of the individual, and the politics of the State versus the politics of the entrepreneur.

Granted, that may be too philosophical a tag to put on this whole debate, in many of its images that have occurred around here, but it is not too philosophical a tag to put on the outcome of this debate, because when you are dealing with 14 percent of the American economy, when you are dealing with everyone's lifestyle, you are obviously undertaking an act which is going to have catastrophic effect on the future course of this country.

So there is a great deal more at risk here, or at issue here—"risk" may be the wrong term—than simply health care reform. At issue here is whether that continuum that came out of the politics of the State and politics of dependency, which is too large to have been discredited throughout this century, is going to be the course America follows.

So whether we are going to say we do not need to take that course—to put it in its most obvious example, the question is whether or not we as a Nation wish to pursue a course which takes us down the path that a country like Sweden has taken, or many other European nations have taken, where essentially the Government becomes such an overbearing and major part of the entire lifestyle of everybody's existence that you have a cradle-to-grave society, where Government tells you how to do things, when to do things, where to do things and, in effect, ends up becoming a force of such dominance that it undermines the four characteristics of individuality, aggressiveness, entrepreneurship, and productivity, most importantly, that are the essence of producing prosperity.

That is I think the key issue in this because what we are talking about is the prosperity of America, whether or not the culture that has produced a greater opportunity for prosperity and economic well-being and individual freedoms than any other culture that has ever been seen on this Earth, certainly any multiethnic culture seen on this Earth—I presume some narrow ethnic cultures, very small, that maybe have been competitive with us in economics and prosperity and maybe even in individual rights, but no multiethnic culture has ever accomplished what America has accomplished. And we have accomplished it because we have put great reliance on and confidence in entrepreneurship and the individual and the capacity of people other than the Government in Washington to resolve problems, whether it is in education or whether it is in just day-to-day life activities.

Yet today we confront, I honestly believe, a philosophical choice of such significant proportions or maybe I should say a political choice of such significant proportions that the outcome philosophically will be to dramatically adjust our course as a nation down the road of being a government that is a dependency-politics-driven government. And I recognize that that is good politics if you want to get reelected and if you want to maintain power, as has been shown for years by the House of Representatives. The best thing to do is vote programs, vote benefits, vote for something for someone, and then create an atmosphere where that individual or that group or that philosophically identified organization finds itself dependent on you, the elected official, for some percentage of either their financial well-being or their political placement.

That has always worked throughout time, and it works very well today, and you find yourself admiring those who within our institutions are so successful at promoting that as a way of maintaining power. And that is what it is about when you get right down to it—maintaining power.

But as you look at these documents you have to say to yourself, where do we draw the line? At what point do we as a nation say we just cannot take that extra step because that step puts us on a slippery slope that moves us so quickly into a society dominated from the center without the freedom of the individual initiative, without the capacity of the entrepreneur to be successful, that we will undermine the inherent engines of prosperity that make us work as a society. You can only succeed in this concept of the politics of dependency and the politics of the State as long as you have producers who can carry the burden.

Mark Twain wrote a nice little short story on this topic where he talked about it in very simple terms. But essentially the success or capacity to survive in the politics of dependency requires that you still have a productive sector that you can raid every so often in order to fund the free lunch and the guarantee of something-for-nothing government. Yet at some point you cross a line as nations like Sweden have found that they have and New Zealand, and you find their productivity has dropped so far and your sectors that your individuals who were aggressive initiators and inventors are no longer that and no are longer productive, and the quality of life and standard of living for everyone starts to drop. It is a bell curve basically of what happens in this area.

But this administration understands that. I suspect if Huey Long had gone to Wellesley he would have produced this document. It is an excellent piece of populist politics, and it is a true exercise in dependency politics. Therefore, I think and I feel very strongly that it must be defeated.

The complexity of it, which has been talked about at some length, is only one example of its natural elitism. You know there is an attitude—it is almost an utopian attitude of elitism that says essentially anyone who drafts something like this is saying: "Hey, listen; I know a lot more than you know." The 500 people who gathered in this room of intellectuals and academics and congressional staff, if there were any of any significance—there was not a provider person. "We actually know better than you do how to run your lifestyle."

The essential theme of this bill and the original Clinton bill was: "Listen. We can fix the health care system because we are smart, smarter than you, and if you do not understand that we will. We regret it. It means you are probably not bright enough to understand it."

That is the theory behind this. Or "You are just not compassionate enough to understand it. So, therefore, just stand back and let us manage your life for you and everything will be fine."

It is utopian elitism that runs through all of this that creates these types of documents with these huge imaginations of structure in their attempt to address problems that are humorous. Sometimes they are so complex, and yet when passed they have immediate and personal impacts on people, and affects their life and how their life is going to proceed.

The original goals of health care do not require this sort of action to be accomplished. They do not require the results of the folks sitting in the room and thinking up all the answers to all the problems in order to address them.

The original goals of health care were to improve quality, to control costs, and to expand coverage. And it does not take this opus to do that. In fact, I would argue and shall argue as I proceed in this discussion that this proposal has substantially reduced the quality of health care in this country and well-expanded coverage—I will give it not dramatically—but a well-expanded coverage and every expansion is helpful. It certainly will not control cost and will aggravate the Federal deficit dramatically.

So, if we wish to address these goals, I think we can do a much better job than this, and we can do it without the officiousness and huge bureaucracy and top-down approach that is designed in this bill.

Let us talk about a few specifics, a few of the areas that this bill, this 1,400-plus page bill creates problems in. Right off the top there are 10 major problems with this bill.

First, it creates 17 new taxes, some fairly substantial new taxes, and these are taxes that are going to have to fall basically on the middle class. You are talking about raising $300 billion of new taxes in this bill over the 1995 to the year 2004 period. That is a huge amount of revenue to come out of the American sector, and it means that funds that might have been used for education, funds that might have been used for infrastructure, funds that might have been used just to create a new job here or there, will be going into this bill.

And what will they be going for? They will be going for a subsidy program which involves subsidizing one out of every two Americans. Under this bill, one out of every two Americans end up getting subsidized. That is a staggering figure. Somewhere between 115 million and 120 million people are going to end up being subsidized. That is good politics of dependency. I have to argue that is the ultimate.

One out every two Americans coming to depend on the Government for a benefit inevitably puts in power a lot of people for a long time who are going to guarantee that benefit. It also means you have inherently undermined the capacity of the rest of society to be productive when you get to that level of subsidy, with $1.5 trillion in new entitlements over the period of time, just a huge expansion in spending and entitlement action activity.

Here we have this President appointing an entitlement commission and asking that entitlements be brought under control. We have here speech after speech on the floor of this Senate about bringing entitlements under control so we can balance the budget and start to do something about the huge debt passing on to the children and the next generation making their capacity for survival dramatically reduced because we are giving them so much debt they have to bear.

We are going to take this piece of legislation here and create, I lost count because nobody ever seems to be able to figure it out, it seems like five major new entitlements costing well over $1 trillion, and we are not going to raise $350 billion in taxes to pay for them, but we are not going to pay for them all. So we are going to aggravate the deficit, in my opinion, dramatically under this bill.

That is unconscionable. We have put a mandate in place in this bill on the employer and the individuals mandates across the board, not just on the idea that what they must pay in insurance premiums, which is a payroll tax, which is in this bill, and you know it is called the trigger. There is this argument there is a trigger. The payroll tax is really never going to occur or may not occur. It may occur in some States and may not occur in other States. The trigger event is 95 percent coverage, which is an interesting number. I am not sure how it was picked, but I suspect it was picked because even Hawaii, which has had allegedly universal coverage for years does not have 95 percent coverage.

It has somewhere in the vicinity of 93 or 94 percent coverage. So every State is going to get triggered in, and there will be a mandate. It is just that it is structured politically very intelligently. Nobody in this Presidency is going to be in office when the trigger hits, so nobody is going to have to pay the political price for it. And, obviously, a lot of people who are involved in this bill will not be around, so they will not have to pay the political price for it. But it is there and it is going to occur.

It is a mandate of significant proportions on small and medium-sized business men and women running a business that is trying to be fairly productive or just barely making it or maybe not even making it. This type of a new payroll tax is going to just have a horrendous impact on them.

Take New Hampshire, my State, for example, which has its largest employment in the sector of hospitality activity, which is hotels, restaurants, and tourism activity. They are our largest employers.

Most of these folks offer their people insurance, but they have a large percentage of people, usually, who are part-time people. They are spouses of somebody who has a full-time job and they do this to supplement their income, or they are college students supplementing their income, or somebody in transition in lifestyle supplementing their income, or maybe they are just ski bums. They come up and work for a few months and take a few months off, and that is the lifestyle they pursue.

But, in that industry, for example, a mandate is devastating.

I recall very vividly somebody who runs a small motel up in Conway, NH, testifying before one of the many health care forums which I have held, and I have held a tremendous number throughout the State. He said, simply, "Listen, I have pushed the numbers. I have taken a pencil to the paper on this. For me to be able to pay for the mandate in this bill"—it was the Clinton bill at that time, but the mandate in this bill is only 30 percent less than that—"I am going to have to sell another thousand rooms a year. I can't sell another thousand rooms a year." He said, "If I could sell another thousand rooms a year, I would sell another thousand rooms a year."

Like President Clinton telling a pizza seller, "Well, just raise your prices to cover this." He cannot do it.

And his reaction was, "I am going to have to lay people off. I am not going to be able to maintain the number of people."

A little later, I want to get into how this actual mandate works if one State should, by chance, end up out from underneath it. It is an overwhelming implication for the States in their activities as to how they would ever comply with it.

Another major problem with the bill is price controls. How many times have we, as a society, and has this world proven in a democratic society that price controls do not work; that price controls inherently constrict an economy in a way that undermines not only the goal, which is to contain costs, but also, more significantly, undermines initiative and incentive and creativity.

Take the drug industry, for example. The drug industry has been one of the popular whipping boys for this administration as it has gone down the road

in pursuing health care. And, of course, populism demands an enemy list, and drug companies have been excellent to put on that list. That list has been sort of a rotating list. It was once doctors and then Congressmen with their health plans, and then it is drugs. But they make a good target, let us face it. They make a lot of money.

But if you take the biotechnology industry, which does not make a lot of money—it costs $300 million to bring a new drug on the market and it takes 10 years to bring that drug on the market. What is the effect of price controls on a industry like that? Well, the effect of price controls on an industry like that is they are not going to get anybody to invest $300 million and wait 10 years for them to bring a new drug on the market.

It does not work that way. If you are an investor or group of investors and you have that type of money to invest and you get to the end of the line after it has been out for 10 years, looking to see if this experimental drug is going to work, and you find that drug is going to be subject, when it does work, which a long shot, is going to be subject to a price controlled event of some nature—granted, the Mitchell bill is not as restrictive as the Clinton bill on this, but the concept is still there. And you can see it, the gleam is still in the back of somebody's mind, that somebody is going to figure out how to take this Clinton price language and upgrade it to some sort of control.

But the practical effect is the investment, instead of going into research on a drug or new drugs that might cure some sort of neurological disease, is going to go into developing some software or developing a new widget or gadget in some other sector of the economy.

And we saw this almost instantaneously. After the Clinton bill was initially introduced, there was a dramatic drop in investment in initial offerings for biotech companies. There has been some abatement of that now, because there is less fear of it, but still the philosophy of price control has that impact on the marketplace. It retards research and it does not in the end ever control costs in any significant way.

Then the bill imposes new taxes that will raise the cost of coverage for families for health care. There is a 1.75 premium tax in this bill, plus, because of all the obligations they put on the States, which they do not pay the States to execute so the States are going to have to probably go out and raise revenue to pay for the administration cost, which they are required to do under this Federal bill. And under the Federal bill, in our graciousness, the Clinton-Mitchell bill has said, well, the States can go out and tax premiums. So they are going to get hit, on top of this 1.75 percent, with probably an additional State tax to pay for the costs which are generated by this bureaucracy which the States are going to have to put in place in order to comply with the Federal bill.

And, of course, the bill does have massive bureaucracies. And I am going to talk at length about that and especially as it affects States. And the bill really takes health choices away from us as American people and puts them in the hands of the bureaucracy.

Those are just some of the problems with this which basically underlie this huge piece of legislation that has been brought forward here by Senator MITCHELL and which is basically the Clinton-Mitchell bill.

It is a massive document. We have not had the time, even though we have been at it now for a few days, to really analyze the whole thing. We keep finding these little problems within it, fairly significant problems, and we bring them forward, but I do not think we have seen all the problems that exist in this bill. And so, I do think we need to go forward and continue to air the issues which this bill raises.

What I want to talk about in specifics relative to this bill today is its impact on the States, because I used to serve as the executive of a State. I looked at this bill and I was stunned at the burden which this bill is going to put on State governments.

There are 177 new responsibilities in this piece of legislation that States are going to have to comply with—177. Now, I have to tell you, as a former Governor and as a State administrator, one or two Federal responsibilities can ruin your day, can make your life miserable.

Take, for example, some of the Federal responsibilities that are put on States through the EPA.

I recall in New Hampshire, it took us 16 years—16 years—to build a 17-mile section of road in New Hampshire. We had four lanes going in and four lanes going out and it narrowed down to two lanes. For 16 years, we had to deal with Federal regulations coming out of the EPA to try to get those two lanes up to four lanes. That was the only major east-west highway in the State. And during that time, approximately 20 people died in that two-lane piece of road. That was the most dangerous piece of road certainly in the State and probably in New England.

But we could not get the Federal Government to change its regulations, to modify its regulations, to allow us to go forward in a timely manner and to build a road. Even though all the major groups had signed off on it in the State, even though Federal Highway signed off on it, and Fish and Wildlife had signed off on it, the Corps of Engineers had signed off on it, we still could not get it built.

That was just one group of responsibilities that were put on us by the Federal Government. Now we are going to have 177 new responsibilities put on the State governments, none of which, by the way, are paid for under this bill. So the Federal Government is telling the State government to pursue all these new actions, but it is not saying to the State governments we are going to help you pay for these costs.

I want to run through some of these because they are significant. Even though they are only a small section within the bill, they are very significant responsibilities. And somebody has thought these up, that is what amazes you. Somebody in some room somewhere in this building, one of these buildings, thought up all these little ideas—well, not little ideas—these grandiose ideas and said, "Let us stick that in the legislation." It is like dropping a very huge rock in a small pond, because the waves this is going to create out in the States are going to be overwhelming. The unintended consequences cannot even be conceived. Obviously they are unintended, but the unintended consequences will be massive and the effects will be dramatic.

In many cases the effects will be to significantly diminish the quality of life and the health care of various people throughout our country. I will give specific examples of why I think so, why specifically in New Hampshire it is going to significantly diminish the quality of health care. But first let me go into some of these 177 new responsibilities, because they are really overwhelming in their impact on the States. You have to feel sorry for the State legislatures and Governors and bureaucracies within the States that are going to get stuck with these.

They start right off with one that sort of sums it all up in some ways. "Satisfy all its responsibilities." This is section 1412, "Satisfy all its [the State's] responsibilities under the Act," including the development of a health care system that can obtain Health and Human Services approval, or face a variety of sanctions including having the Health and Human Services Secretary assume the State's responsibility under the act and having a 15-percent premium tax imposed on its citizens.

In simple language what that says is, if you do not do it our way, States, we are going to come in and we are going to tax your people into oblivion. This is true Federal bureaucratic elitism.

Yesterday we had an amendment to knock out the $10,000 fine, which was the penalty fine against any employer who decided they wanted to offer more of a benefit than the standard care benefit, or less of a benefit. It applied to every employee. So that was an example, another example of this type of attitude.

But this one says, essentially, every citizen in the State will be subject to a 15-percent premium tax if the State government does not meet the arbitrary, capricious, officious attitudes or

views of the Health and Human Services Department here in Washington, developing these health delivery services. I find that insulting. I thought we are a federal system. We are obviously not a federal system—not as far as President Clinton is concerned, or the Mitchell-Clinton bill is concerned. We are a system where you put a gun to the head of the folks out there in the States and say either you do it my way or we are going to come in and tax you into oblivion.

Mr. COATS. Will the Senator yield at that point for a question?

Mr. GREGG. I will certainly yield to the Senator.

Mr. COATS. I would just note the Senator from New Hampshire is a former Governor. Of course we have heard the rhetoric here all week: No, this is not the Federal Government takeover of the health care system. Much of it is going to be administered by the States.

I think the point the Senator from New Hampshire is making is that a great deal of the responsibility of the State is being dictated by the Federal Government.

I wonder, as a former Governor of New Hampshire, if the Senator could give us his perspective on just what a State like New Hampshire would be faced with in terms of putting together the kind of agencies and governmental functions in order to carry out some of the responsibilities that are now going to be laid on the States through the Mitchell bill?

Mr. GREGG. I thank the Senator from Indiana for his question. I think it is a good point. Essentially, the States have no flexibility in this bill. The States are told how to structure their health care system and then they are told how they are going to administer the system. And then the Federal Government does not even have the courtesy of paying for it after they tell them they have to do all these things.

The practical implications for a State like New Hampshire, which is a small State, are, we would literally probably have to add more bureaucracy and more new State employees to administer this plan than we presently have in our largest department, which would be Health and Human Services or our Highway Department. We would probably have to create literally a brand new government simply to administer this plan.

I said sort of off-the-cuff, and half seriously, we would have to pick a new place to have a State capital in order to handle the number of people we would have to add to administer what is requested of us in this proposal.

Let me go through some of these additional things. You can understand that fairly quickly—well, not fairly quickly, because it takes a long time to go through 177, and I plan to go through maybe them all or at least a high percentage of them. But I think it is important to go down them because we cannot take this bill up until we understand what we are doing to our States. So let us talk about it.

The first was, if you do not do it our way we fine you 15 percent. Unbelievable; everybody in the State gets fined 15 percent. They are not comfortable just going out and fining the Governor. As Governor I used to get sued all the time. No, they are going to fine everybody in the State 15 percent.

Second:

Require that each health plan (whether insured or self-insured) or long-term care policy issued, sold, offered for sale, or operated in the State be certified by the appropriate certifying authority as a certified standard health plan, a certified supplemental health benefits plan, or a certified long-term care policy.

That means the insurance—I presume in most States it is going to be the insurance commission who is given the obligation of checking every plan offered in the State to see it meets, not a State definition of what is a standard plan, supplemental health plan or long-term care plan, but a Federal definition. And, for anyone who has ever tried to figure out what a Federal definition is of anything, it is a very difficult process because of the complexity of the situation. I suspect these will be moving targets which will be very hard for any insurance commissioner to confirm. So it is going to be a huge regulatory burden.

Third, "Establish rules for the event a capacity limitation applies to a plan."

That is section 1111. I do not know what it is. I do not know what the rules would be, but obviously they have to put some rules in place.

Fourth:

Establish procedures and methods to assure equal opportunity of enrollment for all families, regardless of when during the open enrollment period, or the method by which, the enrollment has been sought, in accordance with rules established by the HHS Secretary.

Again, what we are saying to the States is you shall set up a bureaucracy to basically monitor everyone in the State on the issue of open enrollment, on the issue of equal opportunity. But you shall do it under a set of standards set up by the Health and Human Services Secretary.

The burden there is, just statistically, probably beyond the capacity of most States to do.

Fifth:

Implement procedure by which individuals enrolled in a standard health plan may disenroll from such plans for good cause (as defined [guess who] by the Health and Human Services Secretary) at any time during a year and enroll in another standard health plan, in a manner that ensures continuity of coverage for standard benefits package or the alternate standard benefits package for such individual during the year.

Again, what you are saying to the States is that basically they have to be the mother, here, of all these different individual plans and all the different enrollment activities within these plans. Not within the context of what they deem to be appropriate, what the State regulatory authority deems to be appropriate, but within the context of what is given to them from on high, from the mount, the Health and Human Services Secretary.

Again, I am not sure how you would set up a computer system to handle that one, but you would have to probably have every State in this country purchase a supercomputer, not just a regular computer system. I suspect just to administer that one section, you would require some sort of supercomputer capabilities, because I do not think your standard computer systems that most States have in place can handle it.

Sixth:

In accordance with HHS standards—

Once again Health and Human Services standards.

ensure the broad availability and processing of enrollment forms, including direct enrollment through the mail, and other such processes as the HHS Secretary may designate.

I think the important point to note here is that everything—everything—the State has to do, comes from a directive from the Health and Human Services or the Labor Department in each one of these. There is no flexibility. The States are not given any flexibility. What we are setting up here is a massive bureaucracy of disproportionate impact in a small State like New Hampshire where you will, basically, have the Government from Washington telling the government of the States exactly what they will do and, basically, telling every individual through the States exactly how they shall act as it comes to their health care structure. It is Orwellian in the extreme, to say the least.

Seventh:

With respect to a child-State supervised care, consider the child as a family of one and enroll the child with State agency who has been awarded temporary or permanent custody of the child in a high-cost sharing plan, unless the State agency has established a special health service delivery system designated to customize and more efficiently provide health services to children in a State-supervised care, in which case the State agency will enroll the child in the plan appropriate to ensure access to such a special health service delivery system.

That sounds fairly benign, but what it means is, that for every child who is in the State of New Hampshire's DCYS system, we are going to have to get a Federal waiver for each child and the process of getting a waiver is not simple. You are talking about a huge number of people having to fill out a tremendous number of forms and then do it again and again and again for each child who we want to move into a system that is something other than what is the high-cost plan which the State presently has.

Believe me, in New Hampshire, we do an excellent job of taking care of our children. We are rated No. 1 in the country for caring for disadvantaged children. We are No. 1 in the country in the area of immunization. We are No. 1 in the country for mental health care, both for children and for adults. We have a very strong commitment in this area, and we have unique services which I suspect would not fall into this category that is being set out as a high-cost plan.

Therefore, we are going to find ourselves having to waiver each one of these children in order to have them take advantage of a service which we have been delivering and which has been doing good things for that child for years.

Eighth:

Establish fair marketing practice laws standards, including to prevent selective marketing, to govern the marketing of standard health plans through use of direct marketing, agency, or other arrangements to distribute health plan information.

That is, the Federal Government is telling the States that they are going to have to become the marketers of the health care plan. So States not only are going to have to manage the health care plans, they are going to have to market the health care plans. That means a whole new agency.

The State of New Hampshire will now have, I guess, a State of New Hampshire agency for the purposes of advertising health care plans and will have to go out and buy TV time, radio time, and newspapers, and put out press releases and do all that sort of stuff. Not something that really a public entity is all that good at usually, especially on a complex issue like health care.

Ninth:

Impose no limit on the ability of any plan to contract with a provider of health services located outside the geographic boundaries of a community rating area or the State.

If you are going to go to this concept of community rating and you are going to go to this concept of managed care, you basically have punched a huge hole in cost control when you start saying, "But there shall be no limits on who a provider can contract with." You are essentially saying a New Hampshire community-rated HMO will have to contract with, let us say, somebody on Cape Cod who has a service in alcohol treatment, or something like that. It is a huge hole in the cost containment elements of health care if you are going to go to managed care promotion programs.

I do notice there are other people who want to speak. So let me move along to some of the other issues I think are significant in this bill.

I appreciate the President's attention.

The PRESIDING OFFICER. The Chair inquires, did the Senator indicate there were 177 points?

Mr. GREGG. That is correct. There are 177 of these obligations that the States undertake. I was on No. 9. So I am going to give you a break and move ahead a little bit to some of the more egregious ones and their impact on the States.

No. 19—but believe me, the ones in between are pretty egregious.

Nineteenth:

Have a program of reinsurance and risk adjustment that governs how a purchasing cooperative that requires direct payment of premiums shall forward to the standard health plan the amounts collected on behalf of the enrollees in such plan.

It is just staggering to imagine how you are going to do that.

Twentieth:

Develop rules under which each purchasing cooperative in a community rating area shall provide the State with information on its membership and marketing fees.

Again, this gets the State into the business of being the public relations agency on health care within the State.

Twenty-second:

Use the actuarial data to make a determination that each plan's marketing fees are based on a legitimate variation in marketing and distribution costs across alternative distribution sources.

Again, very complex to do that.

Twenty-third:

Have a program of reinsurance and risk adjustment that governs how the purchasing cooperative selected by the employer shall be responsible for forwarding premium payments to the appropriate plan or cooperative for each community-rated employee.

They are talking about setting up a system in New Hampshire under that little section there that will affect 1.1 million people. How you do that without creating a massive new bureaucracy is beyond me. You have to add literally hundreds of employees to the State payrolls to track that one item right there. That does not account for all these other items we have put in here that are just beyond comprehension in the level of new management burden put on the States.

Twenty-eighth: "Manage premium and cost-sharing discounts and reductions."

Thirty-eighth:

Consult with the HHS Secretary in its establishment of standards for guaranty funds to be established by States for community-rated health plans.

So the State becomes the insurer and has to set up the insurance accounts to make sure that these community-rated plans, if they do go under, are properly indemnified. And to do that, we have to go to Health and Human Services for direction.

Thirty-fourth:

In order to obtain start-up grants, provide assurances, satisfactory to the HHS Secretary, that amounts of State funds (at least equal to the amount made available) will be expended for start-up purposes.

That is pure blackmail, that is what that section is. That is blackmail. First, they are going to dump all these new programs on the States, and then they say to the States, "We're not even going to give you the start-up funds; we are not even going to give you the start-up funds unless you put forward a certain amount of money."

It is hard to believe that the people who drafted this amendment have ever gone back to their States—that section right there. If they have, they would be tarred and feathered if they ever admitted to having put that amendment together.

Forty-third:

Enter into agreements with the Secretary of Labor in order to enforce responsibilities of employers and large employer purchasing groups and requirements for employer-sponsored health care plans.

This is an interesting one. Now we have the Secretary of Labor, that we have to negotiate with on the issue of enforcement, and before we can do anything on enforcement, it looks like we are going to have to follow the directives of the Secretary of Labor for the same sort of precision and officiousness that we are seeing here in the area of Health and Human Services.

Seventieth:

Designate public access sites within each community rating area through which residents of such areas can obtain consumer information concerning health plans and purchasing cooperatives offered in such areas, in a manner that ensures access to such information by the health care consumers.

That means, once again, that the State is in the PR business, and I presume it also means that the State is essentially going to have to set up kiosks which they are going to have to man, where they are going to talk about health care. It does not say how we are going to pay for that. It just says States have to do it; they will probably have to have a kiosk in every mall in the State. Every mall will have its own New Hampshire health insurance State government information center. How much is that going to cost? How confusing is that going to be to the public?

Seventy-second:

Provide such public access materials to employers located within the State.

That is the effect of what I was mentioning.

Moving on to 86, which I find to be one of the most egregious in the entire group. There are so many egregious ones it is hard to differentiate standards of level of aggravation they are going to create to States.

But this one certainly is one of the worst. This is classic special interest politics.

Eighty-sixth:

Before initiating the process of implementing its home and community-based care program—

Before it can do that, the State must:

Commence negotiations with labor unions representing the employees of affected hospitals or facilities, to address the impact of

the implementation of the program upon the work force, and methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(Ms. MOSELEY-BRAUN assumed the chair.)

Mr. GREGG. Well, I am glad to see that this bill has not been affected by special interests. States must under this language negotiate with the labor unions before they can set up the home- and community-based programs. They are told what they have to negotiate, what the outcome of the negotiations have to be, for all intents and purposes.

Talk about special interest politics. When did State governments get into the business of labor negotiations dealing with health care centers? What expertise, to begin with, and what right does the State government have to go in and be the negotiator of this issue? Clearly none.

But they are demanded. It is a demand in here. Why? Because some labor union said it is important, probably for support of this bill. I do not know. But clearly it was put in there to take care of the special interests known as the health care labor unions.

Seventy-eighth:

Enact or adopt long-term care standards that conform with the Federal standards to be promulgated by the Health and Human Services Secretary, at the risk of having the HHS Secretary assume responsibility over long-term care policies in the State.

Now we were back at this other page where the State—that is, that other authority where the State—remember this one—must satisfy all responsibilities under the act and if it does not satisfy all responsibilities as approved by HHS, the State gets hit with a 15-percent premium on every consumer in the State. Every consumer gets hit with a 15-percent premium if we do not do it exactly the way HHS wants us to do it.

Now we have a section that says not only that, but we are not happy with hitting you with a 15-percent premium, State governments. We are going to take over your system on long-term health care if you do not do it exactly as the Secretary of HHS promulgates.

By the way, HHS has promulgated nothing in this area. And I presume when you look at the length of this act and number of initiatives—I think there are 800 initiatives that the Secretary of Health and Human Services is required to pursue under this act; there are 50 new bureaucracies also, but at the time they got around to promulgate this, the States would obviously have had to go forward, and then the States would find that they were not in compliance and the Secretary of Health and Human Services would come in and take over their plan.

That is clearly an aggressive use of the Federal power to dominate the States, and it delivers a blow to the States from which they would not be able to recover.

The theme of this bill is either you do it our way or we put a gun to your head and we shoot you. And our way is this huge bureaucratic entity called the Mitchell-Clinton bill, which creates all this in cost for the States.

Ninety-third:

Not later than January 1, 2001, achieve the integration of the mental illness and substance abuse services of the State and its political subdivisions with the mental illness and substance abuse services offered by the health plans pursuant to title I of this act.

I do not know how that works, but I do know that when you start talking mental health and start talking about, in New Hampshire at least, having the Federal Government come in and tell us how to do mental health, we get very upset. Why? Because we deliver the best mental health care in the country. We have spent a lot of resources and effort on our mental health delivery in New Hampshire, and we are very proud of it. It has been rated the best, not by us—obviously, we would rate it the best—but by such diverse groups as Ralph Nader and his organization. We are very sensitive when we start seeing the Federal Government coming in and telling us how to manage our mental health system. But this bill tells us exactly how to manage it, every part of it.

Ninety-seventh:

Report annually to the Health and Human Services Secretary on the incidence and prevalence of mental illness and substance abuse disorders in prison population, changes in such incidence and prevalence in prison population, and the potential causative factors with respect to such changes, including an estimate of the extent to which the denial of treatment—

Now catch that one.

to which the denial of treatment, or the provision of inadequate treatment, to the individuals with mental illness and substance abuse disorders is contributing to criminal activity of such individuals.

I get the feeling here that we are setting up for something, some special agenda. We are not treating those prisoners nicely enough. We do not have enough TV's, not enough basketball courts. We are very concerned about that. And we are setting up here for a nice little lawsuit brought by some organization which is interested in pursuing prisoners' rights. States are going to have to comply with this language or they lose, or they get hit with a 15-percent surtax on all their individuals because this is a part of the bill and if you do not comply with this language, if the States did not supply this information on denial of treatment, then they get sued, then they get hit with a 15-percent premium, and the HHS Secretary has the right to come in and take over the plan.

Ninety-eighth:

Receive grant assistance for the State's development and operation of comprehensive managed mental health and substance abuse programs that are integrated with the health delivery systems established under this act, provided such programs promote the development of integrated delivery systems for the management of the mental health and substance abuse services provided under the comprehensive benefits package, give priority to providing services to low-income adults with serious mental illness or substance abuse disorders and children with serious emotional disturbance or substance abuse disorders and provide for the phase-in of such services for all eligible persons within 5 years, ensure that individuals participating in the program have access to all medically necessary mental and substance abuse services—

Remember, "medically necessary" is now a term defined not by the doctor but by a bureaucracy here in Washington. A group of seven people will be defining what is medically necessary and appropriate under this bill, not your doctor.

promote the linkage of mental health and substance abuse services through primary and preventive health services, and meet such other requirements—

Such other requirements. My goodness, how many other requirements can they think of?

as the Secretary may impose; and provided the State has a detailed plan that is approved by the Secretary.

Now, of course, if you do not do that, they come in and they take over your mental health system. They are not content with taking over your health care system generally. They are not content with taking over your long-term care system generally. They want to take over your mental health system, too, because they know best. They know best. The people who wrote this bill, who sit down here in Washington, know best for you how your health care system should be delivered in your State and how you, as an individual, should interface with your doctor and your hospital. It is the ultimate in utopian elitism and arrogance.

One hundred third:

Establish a limited service hospital program that includes a rural primary care hospital program and/or medical assistance facility program.

I think most States have already done that. And they have worked hard at it. I do not think we need the Federal Government to come in and tell us we should do it again. If we do not do it, I guess they come in and they take over our rural delivery systems.

It will make the States make the maintenance of efforts payments. Maintenance of efforts payments are a tax on States, and a fairly significant tax. In many instances under this bill it is going to be rather large. Essentially, it says that the States shall pay the Federal Government for the right to participate in this new health care consortium which basically tells the States exactly what to do, when to do it. It does not reimburse the States. But we do have maintenance of efforts payments in here to make sure the States send tribute to Washington.

Then there is a requirement to make available through a consumer information advocacy center to all individuals a summary of the State health plan reports in the consumer report cards. That is an interesting authority required of the States. Remember, if we do not comply with that, we will end up once again with the HHS Secretary having the right to come in and take over the system, and assess a 15 percent premium tax on all consumers in the State.

What this essentially says is that there is going to be an advocacy group set up, another new Federal advocacy agency I presume with all of new advocates in it. And those advocates are under this. What they produce as their report card the State are going to have to distribute throughout the States. Maybe it will work. Advocacy is always good. But you know what you are saying here is that essentially we basically have nationalized the system. So in order to replace what is usually a market force event which would have businesses going out and talking to the employer, or yourself, or your labor union going out and talking to different insurance companies, trying to offer a plan, who has the best plan, and who offers what, we will have to have a group of advocates do it now because essentially we set up a structure which has eliminated the market face and the forces of exercise of the delivery of health care.

The list goes on and on. I skipped over an awful lot to get to No. 116. But I want to talk about a few more of them in specifics also because some of the ones I just laid out I think are reasonably egregious. In fact, they are dramatically egregious. But in addition, there are some that are even in my opinion more significant.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. GREGG. While I am searching through my papers, I yield to the Senator from West Virginia for the purposes of a question.

Mr. ROCKEFELLER. I am just interested in terms of the time, my own schedule, and perhaps others. The Senator has taken about hour and a half. I wonder how long the Senator plans to continue to talk for the purpose of convenience of Senators, including the Senator from West Virginia?

Mr. GREGG. I would expect that I will be speaking on this subject for an additional half an hour, I inform the Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator.

Mr. GREGG. Mr. President, we have gone through some of the highlights of some of the 177 additional requirements put on the States remembering that the basic schematic goal of this whole exercise is to have the Federal Government take over the health care system of America, and specifically to put the States in the position of being a functionary of the Federal HHS Secretary, making them essentially the carriers of the water of the bad news of the bureaucracy to the people in their States, with very little flexibility. It is not going to work obviously. Common sense tells you it is not going to work. But I recognize that common sense does not necessarily hold the day.

So let us talk in specifics, beyond the items that I mentioned about some of the more major events that this bill puts on the States, and how they will impact the States. Probably the most significant one, from the standpoint of how people's lives are affected is this whole issue of subsidies, the integration of subsidies, and how the States integrate subsidies, because how States take care of their medically needy people today, Medicaid people and people who are not on Medicaid but are low-income individuals, is obviously important.

In New Hampshire I think we have done a fairly good job. There is more we can do, and we are trying to do. In fact, in the last legislative session, many initiatives were passed. But under this bill, I think people need to understand the complexity of the new premium subsidy program and how it impacts the States.

Under this bill, there is a full subsidy for low-income individuals from 100 percent of poverty phased out as they get up to 200 percent poverty. There is a full subsidy for children under 19, and pregnant women 3 months after their pregnancy up to 185 percent of poverty. It phases out to 300 percent poverty. There is a subsidy for unemployed people up to wages of 75 percent of poverty for a period of 6 months.

What does that do to States? Remember that the States already have Medicaid. So they must continue to comply with the Medicaid Programs, and administer their Medicaid Programs under this bill. But under the Mitchell-Clinton plan, the States must offer wraparound coverage; that is, to continue to offer Medicaid services that are not offered in the Medicaid recipients standard plan. In other words, the Medicaid recipient falls under the standard plan. But, to the extent that Medicaid services exceed the quality that you would get from the standard plan, the States must offer a wraparound so that the Medicaid recipient will actually receive a higher benefit package—this is the welfare recipient—than the average American would receive under the standard plan. The States have to pay for this.

This would be extremely complex to undertake. The plans would have to have an incentive to limit coverage. They would have no incentive to limit coverage, and you would end up with an increased Medicaid wraparound. The coverage and the costs would shift directly to the State. It would be a dramatic cost shifting event.

Further, States set Medicaid income eligibility thresholds within the Federal parameters. But the Clinton-Mitchell subsidy thresholds do not correspondence to the State threshold. This will make for an administrative nightmare.

Also, the subsidy programs would be a tremendous undertaking because you would have problems confirming involuntary determinations as to unemployment subsidies, and determining pregnancy. You have to go in now and you have to determine when someone is pregnant, and when they are not pregnant. Can you imagine the personal information we are going to have to take from someone on that issue? Then you have the issue of when someone is working and when someone is not working. You have to verity State residency claims and income claims.

The complexity is huge. I am not saying it cannot be done. I suspect those complex things can be done. But what they are going to require is a dramatic increase in costs.

CBO has questioned this implementation of this system. In fact, they have estimated it would cost the States $50 billion over 10 years just to institute the subsidy. Where do they get that $50 billion? And $50 billion I know in Washington does not sound like much money for some reason.

I was stunned when I went to one of my first committee markups. They knocked all the zeros off, and all they were talking about was 50. I said, "What is 50?" They said, "That is $50 billion." Well, $50 billion would run the State of New Hampshire, actually run the entire State government, for 50 years-plus. So $50 billion is a lot of money when you are talking about passing the health care costs on to the States. All is not going to fall to New Hampshire. I hope not. But a significant number of dollars are going to fall on New Hampshire and all the other States, $50 billion among our States. And $50 billion per State over 10 years, that is $100 million if you were to spread it evenly. Obviously, you cannot spread it per capita. But that is a huge sum put on our State governments.

You also have a new program called the outreach enrollment system. Under this provision, States would have to establish a system under which individuals would be presumptively eligible for a subsidy and enroll in the plan at the point of service by the provider.

So what you have is when somebody walks into the doctor's office, they are presumed to be a subsidized individual. I can understand why the Clinton-Mitchell plan takes that view, because they are subsidizing to 115 to 120 million people—1 out of every 2 people. If you do not happen to be a subsidized person and you are walking down the street, you could probably be safe to say the person walking beside you is subsidized and be accurate. The point

is that there is a presumption of eligibility when the person walks into the provider's office, and the enrollment and subsidies are valid for 60 days.

In other words, people can declare themselves eligible for subsidies at the doctor office and have a plan pay for. Then the actual eligibility is determined later. If mistakes are made, who bears the cost? Well, the taxpayers bear the cost. This type of enrollment works in increasing coverage only if significant followup occurs to determine actual eligibility and to permanently enroll the individuals in the plan. States are thus required to undertake significant outreach efforts of this type, including the provision of an enrollment package to each provider in the State;

However, given the significant burdens, even standard enrollment and reconciliation would impose the followup outreach efforts and would be likely to fall by the wayside. This could lead to a significant drain on the Treasury. It is a payment taxpayers would have to make. Over 30 States now have provider enrollment already through contracting through private vendors. New Hampshire is one of them. If you do not, you are going to have to set up a system, and it will be extremely expensive. The Clinton plan authorized a 1-percent tax on States. I mentioned that earlier. States can assess this tax on premiums in order to pay for the cost. Well, I would hate as a Governor—and I suspect most legislators in the State legislature would not want to —to raise the premium tax in order to comply with a Federal rule which they had an absolute inability to monitor, to adjust, to effect. But that is what is being asked here.

The Health and Human Services Secretary essentially says you shall do this one—there are 177 mandates—and then you are going to have to add probably half again as many new State employees to administer as you presently have, and they say: "We will be nice and let you assess a tax on the premiums that your people pay." That is not something that I think most States want to do. But it is, again, a gun-to-the-head type of legislative action undertaken by the elite few here in Washington.

There is also the 1.75-percent tax, which is assessed against all people's premiums in this country, which is in the bill, and which is already in place if this bill passes. Remember, that is assessed against everybody, so State governments pay it, too, on their employees. That is a big dollar item, a 1.75-percent premium tax on State employees. That is a big number, and where does that come from? Well, in New Hampshire, it will come from the taxpayers to fund that tax on their State employees, and then they will also have to pay that tax on themselves, so they get to pay it twice. Are they not lucky as citizens of our country living in the States?

I have tried to go through this and analyze this bill as it is in a New Hampshire-specific way. I will read through some of the effects of this as it impacts New Hampshire. New Hampshire will have to develop a brand new untested health care system and get HHS approval or face the prospect, as I have mentioned before, of having New Hampshire citizens subject to a 15 percent premium tax. That is for starters. New Hampshire will have to submit—and all States will actually—a complex application to HHS by January 1997, and have it approved and updated every year.

Even if we could do it, I would not want to do it that fast. It is just very hard to take a system like the New Hampshire system, which is working extremely well, and throw it out the window and replace it with this new we-know-best Federal system, and do it in the timeframe that this bill has suggested.

I have mentioned a couple times that the New Hampshire system is doing very well. I want to read some statistics to support that, because if this goal is to improve health care—and I think that should be one of our goals—we ought to acknowledge that there are some places in this country where health care is fairly good, and in those places we are trying to solve the problems we have, but we think we are doing a good job. New Hampshire, for example, in national rankings, was rated No. 3, I guess, in the health of its people. It was rated the third most healthy State in the country. There are a lot of different statistics that went into that. We are rated the second best State in the country in the area of infant mortality. We have one of the lowest rates in the country. We are rated the lowest State in the country in the cost people have to pay for their health care, even though we have the best health care and the healthiest people in the country. We are No. 1 in the country in childhood vaccination. We are right in the top of the country in annual health care payments—we are in the bottom, but the top as far as cost goes. We have one of the lowest costs in the annual health care payments made by families and by individuals, so that we are a very inexpensive place to purchase health care. Yet, we deliver extremely good health care. As I mentioned, we are rated first in the country in mental health care.

We have accomplished this through a lot of work. It has been creating a very integrated system. Yes, we have uninsured people in New Hampshire, about 10 percent. We have tried to address that, most recently in legislation passed this year by the New Hampshire House. We do have a lot of services that are supplied to the State for free by many of our service providers. But we have a system that is working very, very well, for the vast majority of the people who live in the State. They get first class health care, and get it promptly and at a fair price. Before we throw that system out for this huge new bureaucratically-driven health care, I think we ought to expect that we are going to get something better. And we are definitely not.

To continue, under this proposal, if New Hampshire fails to meet the conditions of compliance, HHS can reduce the amount of payments for academic health centers and health research entities. And even if New Hampshire wants to continue to deliver the type of health care we are delivering—and it would probably be significantly different from what is planned under this bill—if we were continue to give the people the best health care in the country at the lowest cost in the country, with the best vaccination rates, mental health care, the best care for children in disadvantaged situations, we would be fined. Then we would start to see that in order to force compliance with this brand new huge bureaucracy, which would create mediocrity, in my opinion, we would start losing some of our payments to critical institutions, such as all academic health centers—and we do have one excellent one in New Hampshire—the acute care portion of the Medicaid program in New Hampshire would retain responsibility for continuing the Medicaid program, which includes the highest cost parts and the long-term care, plus determining eligibility and administering three new subsidy programs, huge cost to the State. New Hampshire would be responsible for implementing at least three new multibillion-dollar subsidy programs for the temporary unemployed, the low-income, pregnant woman and child, and hard to reach low-income groups like the homeless, and again no reimbursement for those costs, and CBO has acknowledged that it would be difficult for States to pursue that.

New Hampshire can expect that this would affect almost 370,000 individual residents in these subsidies programs. New Hampshire must pay the amount of the premium assistance subsidy directly to the health plan in which the individual is enrolled.

New Hampshire must receive review applications once a year and revision of whenever estimates of income change and changes to complement status of family members.

New Hampshire must then revise the amount of premium to reflect the changes. All this is required of the States to do.

New Hampshire must conduct year-end reconciliation to each family income for the year based on each recipient's time with the State.

New Hampshire does not have a State income tax. How are we going to do this one? Reconcile everybody's income

or at least 370,000 citizens' income in the State? What an outrage.

New Hampshire is required to verify the information by cross-checking with the Federal tax returns. I presume we can do that if we ever get a computer big enough. New Hampshire has to determine who underpaid, who overpaid, and how to make adjustments.

New Hampshire would be financially responsible for premium assistance based on eligibility determination error to the extent New Hampshire's error rate exceeds a maximum permissible error rate set by the omnipresent Secretary of HHS.

New Hampshire has to determine which families in the area have adjusted income below 200 percent of the applicable poverty level. New Hampshire would have to assure broad availability and processing of enrollment forms and provide direct enrollment through the mail while remaining in compliance with any other rules established by HHS, the omnipresent Health and Human Services Secretary.

New Hampshire would have to set up an outreach program and require certain health center providers to fill out application forms for new patients declaring they are financially eligible for subsidy.

Enrollee disenrollment from each standard plan must be reviewed to determine whether there is a pattern disenrollment that does not reflect the distribution of such plans reenrolling membership.

New Hampshire will need to establish a new 1 percent premium tax to pay.

New Hampshire is required to set up new insurance regulations. New Hampshire would be required to enforce complex new insurance laws, certify and accredit and enforce health plan standards, charter HIPC's and monitor the transfer of billions of dollars in insurance premiums paid by employers and individuals.

I think that is an important point: the idea that the State governments are essentially going to be conduits for all the cash and payments that are flowing through this system. Most States are not capable of managing those types of cash transactions and certainly not for overseeing them, taking the marketplace entirely out of the exercise. It is now all government, no marketplace.

New Hampshire would need to establish fair marketing practicing laws and standards, prevention of selective market and governance of State health plans through the use of direct marketing, agency and other arrangements to distribute health plan information.

We will probably have to buy a television station and go public 24 hours a day on this issue. Maybe we can get a new license they auction off down there. New standard, data, and other documentation in addition.

New Hampshire would need to comply with the HHS omnipresent standards to be published relating to management of finances, maintenance of records, audit procedures, and financial recording requirements.

New Hampshire would be required to establish a new risk adjustment organization, and using the methodologies developed by the omnipresent Health and Human Services Secretary, apply the per capita adjustment amount to community-rated and experience-rated and the multi-State plans and the health plans offered within each community rating area.

We are smart in New Hampshire, but I do not think smart enough to do that one.

New Hampshire would have to comply with the new community rating requirements.

New Hampshire would have to collect data on patient care, health spending, the functioning and efficiency of health plans, and the omnipresent Health and Human Services Secretary will determine what those reports and audits by New Hampshire were required.

Remember, under this bill your private medical information becomes a very public event. Under this bill researchers have the right to query you on your health care situation even without notice. They can come to your house and say "I want to know how your health care is doing. I want to know what happened here."

You have to theoretically respond to them. I expect in New Hampshire you will run into folks who will not take kindly to that and throw you out the door. As a practical matter under this law you are supposed to respond.

New Hampshire would have to develop and publish annually—in a format designated by the National Quality Council, an agency of the omnipresent Health and Human Services Secretary—the performance of each plan offered in New Hampshire with respect to a set of national standards.

New Hampshire would have a new State health care delivery system. Ours is not good enough. The fact its plans are ranked to be the best in the country with the lowest cost in the country does not matter. Out the door. Get a new one here, something designed in Washington by a group of folks who know best what the people of New Hampshire should have.

A new cap on entitlement replaces the disproportionate share hospital payments. While disproportionate share payments are reduced according to level of insured, New Hampshire has a new national $2.5 billion program which bypasses State government and goes straight to the hospitals serving vulnerable populations.

So you change the playing field fundamentally.

New Hampshire is required to identify all hospitals in which the low-income utilization rate exceeds 25 percent and provide a list to the Secretary. The State must also report the total of inpatient hospital days for hospitals in New Hampshire for the year in accordance with reporting procedures established by the omnipresent Secretary of HHS so the Secretary can calculate low-income days and each hospital receives an allotment directly from the Secretary on a quarterly basis.

New Hampshire must designate medical assistance facilities, rural primary facilities, hospitals that serve the population and essential community providers.

New Hampshire must have planning and have startup funds. New Hampshire must match the planning and startup funds. I talked about that earlier, the fact we get hit with a penalty if we do not match startup funds. New Hampshire would be required to oversee the HIPC's. New Hampshire will have to charter and certify the HIPC's and establish the voting rights of members to select its board of directors.

Maybe New Hampshire does not need a HIPC. We do have the best health care in the country and do it without a HIPC. We probably do not need a HIPC. Under this we have to establish one.

New Hampshire will have to determine the regional boundaries, and community rating areas must contain at least 250,000 individuals and not divide metropolitan areas. That is going to be an interesting statistical event in a State of 1,150,000 people.

New Hampshire would need to coordinate operations in a community rating area when a HIPC has operations in neighboring States, including the adoption of rules, contracting health with plans, enforcement activities and establishment of fee schedules for health providers. So we will end up obviously because we, like most States, have a number of sister States in a very complex operating structure with our sister State of Vermont, or sister State of Maine, or our sister State of Massachusetts.

I am not sure what happens to the people who live along the Canadian border who go over to Sherbrook for an operation. It will be an interesting exercise to say they are treated but the complexity for doing it is extraordinary. They would lose choice under the Clinton-Mitchell plan also, the standard benefit package, and the alternate benefit package will contain the same benefits. Only the costs sharing will vary.

For example, in New Hampshire, Christian Scientists complained forcing them to buy assistance will be a double blow. They will not use the benefits they pay for and will not get the benefits they will use.

New Hampshire opthalomologists have spoken to me about the Clinton plan, the Government funded centers for cataracts. They will not be able to

compete, and a patient will lose the choice of eye doctors.

New Hampshire residents, really I suspect, as they look in depth at this plan are going to find that its massive expansion of obligations on the State create huge new bureaucracies which will fundamentally undermine the quality of care our State has. I do not today, which is excellent.

I do not think I have to rely on my own hypothesis on this. CBO, which has done analysis of this bill, which probably did one of the most devastating statements in this area, it said in addressing State responsibilities it said like several other proposals this one would place significant responsibilities on the States. I am quoting CBO on the States for developing and commending the new system, and it is doubtful that all States would be ready to assume that new responsibility in the timeframe envisioned. In addition, it says many of the States would simply be unable to comply with this language. States would bear the responsibilities for the requirement of the end of the year reconciliation processing which the income of subsidized families was checked to ensure that the families receiving the appropriate premium subsidy, reconciliation would be a major undertaking. Even if Federal income tax information could be used, many of the families receiving the subsidies would not be tax filers. Tracking people who move from one State or another during the year would also be difficult and would require extensive cooperation among the States. Probably be impossible. That is my parenthesis.

And it goes on and on.

It just basically points out that—another language: "It is doubtful that all States could develop the capabilities to perform these functions in the near future," talking there about monitoring the health insurance industries.

The language of the CBO report is just replete with statement after statement of the affects of this plan and its inappropriateness on the impact on the States.

In addition, the National Governors Conference, taking a long look at the Mitchell-Clinton plan, concluded also that large sections of it are going to have extensive negative impacts on the States. In one area, the plan concerns the following four categories.

One, that it does not integrate Medicaid into the new low-income programs.

Two, the adjustment factors to increase the States' main efforts of the contribution over time is higher for most States than the expected Medicaid growth.

What that means is the Federal Government is essentially extorting from the State money that it would not have gotten under the traditional payment process. There is no Federal funds to administer low-income programs, as I pointed out before, which cost almost $50 billion to the States, which is a huge sum.

And most standards, results, and regulations set by the Federal Government are nearly impossible—in the National Governors Association—nearly impossible to administer the plan.

Well, I have gone on for quite awhile here, but I think it was important. I could have gone on for a lot more time. I think it was important to go through in some depth how this plan basically takes control of State governments' function in the area of health care and how it puts onto the States this huge new structure of bureaucracy.

What is the bottom line? Many people sort of tune out and say, "Well, that's just the State government. So what?"

The bottom line is it affects the people who live in those States. The people who live in those States and have to pay new taxes and are put under the auspices of having basically to deal with Washington for their health care rather than their State government, are confronted with this huge new bureaucracy which will be confusing and hard to deal with.

In States like New Hampshire, which have such a strong tradition of delivering quality health care, it essentially undermines everything we have worked so hard to accomplish.

Now, yes, we all recognize that there needs to be reforms, that we need to address things like portability and preexisting conditions, and small-market reform, antitrust reform, and malpractice reform, and make sure that the low-income working person has fast and first insurance.

But this is not the way to do that. We do not need to have a basic national Federal takeover in the name of dependency politics of our health care system in order to accomplish those goals.

And, in fact, this language—I think I have made the case—will significantly diminish the quality of care that is delivered, at least in the State of New Hampshire, because it will create huge bureaucracies and drain off huge amounts of resources to comply with ideas and initiatives which come there from Washington which may either, one, have no bearing on the quality of care in New Hampshire; or, two, which may actually undermine our present quality of care in New Hampshire.

The arrogance of this bill to come forward and say that we know best here in Washington how you in New Hampshire should run your health care system is what I find most frustrating about it. Because there are places in this country—and there are a lot of them—that are working hard to address health care and improve health care. They do not need to have the Health and Human Services Secretary essentially take over the government of the State in order to address that issue.

Rather, what they need is targeted reform, which will improve those functions of the health care system, which should be addressed from the national level. Those targeted reform ideas have been proposed. They have been proposed by Senator PACKWOOD and they have been proposed on the House side by Congressman BILIRAKIS and Congressman ROWLAND, Dr. ROWLAND. They are out there.

The only reason we are going forward with this bill is because of the point I made at the beginning of this discussion. It is this philosophical drive to move to dependency politics, the politics of the State, where you bring everybody under the control of—not under the control, but at least under the obligation; or not everybody, but a large percentage of the population becomes committed to or dependent on the Federal Government. And the Federal Government or the central Government becomes the center of power for the domination of the style and activities and delivery of the service.

That is a mistake. We do not need to step off onto this road with a giant leap. Regrettably, all government is moving to the left. But we do not need to assist it by taking this giant handspring in that direction through the passage of this bill.

I yield back my time.

I thank the Chair for her courtesy and I thank the Senator from West Virginia for his patience.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator from New Hampshire and others.

I wish to speak, Madam President, on health care reform. But it just seemed to me that, almost without exception, those who have come to speak on the other side about health care reform have, in almost identical words, disparaged the Mitchell plan.

What I keep looking for is something that they say they are for, and I just never hear it.

If we are discussing health care plans, we ought to be looking at the Mitchell plan and at the Dole plan. So that is a little bit of what I propose to do today. If the majority leader comes in, he may want to do a unanimous-consent request and I will yield to that.

Madam President, in the very simplest of terms, our debate on health care reform has come down to defining objectives. I have been working on health care—as has the Senator from Oregon, who is on the floor, and the Senator from Iowa, who is also on the floor, and others—for a long time. It has been a major concern, taking up a lot of my time for many years. I have looked at and I have studied more proposals, more plans, more analyses,

more bills than I can count or that I wish to think about counting. And today I support Senator MITCHELL's bill.

But I also see, happily, some areas of agreement with those on the other side of the aisle. It might be nice to mention that. I understand it might be hard to tell from watching all of this, but it is true; I think there are areas of agreement.

For example, Democrats are as committed as Republicans to ensuring that every American will be able to keep the health care plans that they now have if they want to. Both parties are in agreement on that.

If you have Blue Cross and if you like Blue Cross, you should be able to keep Blue Cross. If you have health coverage with Aetna and you are satisfied with that health coverage with Aetna, you should keep Aetna, by all means.

The Mitchell bill lets Americans do just that, stick with the insurer that they have if they like that insurer. So we do agree on some key health care issues.

But behind this agreement there are some important differences, and it is important to talk about both plans and some of these differences. Let me try to explain why the Mitchell bill stands out to this Senator as the proper course for reform and why the Dole plan worries me.

In simplest terms, the Mitchell bill is intent on providing health care security for the American people. That is what we have said from the beginning. But the Dole plan tips the balance in favor of insurance companies. This difference is, obviously, very critical and I believe it is what makes the Dole bill dangerous and the Mitchell bill a far safer course for all of us.

With the Mitchell bill, we can see the progress that this Nation will make toward ensuring health insurance. Ensuring the insurance is always worth the premiums that people pay, always affordable and always secure; always there when you need it.

With the Dole bill, every American will still be at risk of paying premiums month after month, year after year—but finding their claims rejected just at the time that they need to use the coverage. The Mitchell plan offers reforms that will mean something to American families, real substance for real people in my home State of West Virginia, in the Presiding Officer's home State of Illinois. As we think of real families, working families, people we know, we want them to have health insurance that they can count on. The Mitchell bill does that for them and it will mean a great deal to them. It eliminates loopholes.

I refer to this chart. The Mitchell bill eliminates loopholes, limits on coverage, fine print, and deceptive practices. Too often fine print is used to deny people care when they need it most, or to let insurance companies cut and run from people just when medical bills get too high.

That bit of common sense in the Mitchell bill is long past due. Is that not exactly why people purchase insurance? So they have this kind of protection? That is what they pay their money for, to help them in the event their medical expenses get too costly. That is what insurance is for.

Today, insurance for senior citizens has a large hole in it. A visit to the doctor to find out that you need medicine is covered, but the medicine that the doctor may say that you need is not. That is a very large hole. The Mitchell plan plugs that hole by covering prescription drugs.

For senior citizens, the Mitchell plan has prescription drugs and long-term coverage.

Consumers will never have to fear losing their coverage under any circumstances. No more being dropped arbitrarily or canceled. The Mitchell bill stops those practices, and it provides help with premiums if you are between jobs.

We are told that in the course of a lifetime, young people will have 5, 7, 8, even 10 different jobs. There are a lot of people "between jobs" in my State, and I want them to have insurance between jobs while they are looking for other jobs.

So, the Mitchell bill is about getting and helping people keep good, reliable health insurance.

The Dole bill, however, is another story.

I refer to this second chart. Those insurance company loopholes and fine print that today can be used to deny or cancel insurance, stay in place in the Dole bill. Promises made in the Dole bill are meaningless because they apply to coverage that people cannot afford to buy or keep. Insurance does not mean anything unless you can keep it. Insurance companies' costs are completely uncontrolled in the Dole bill, and insurance bureaucrats can continue to dictate to doctors what care they give.

The story I love to tell in West Virginia is of a two-physician practice. In the two-physician practice in one of our cities there are 18 people working, 9 of those people practice medicine, 9 of those people do paperwork. Four of the nine people who do paperwork spend all day on the telephone to the insurance companies asking permission to do what the doctor in that office knows perfectly must be done, but they have to get permission from the insurance company to do that. That is outrageous. That is anachronistic, but that is our current system and that system is preserved under the Dole bill.

For those fortunate enough to get and keep coverage, there is not much to gain. The Dole bill offers no protection against sudden premium hikes. Even the most fortunate will be constantly at the mercy of insurance companies' radical rate hikes.

Under the Dole plan, Medicare gets cut. Yes, it does under the Mitchell plan as well, but under the Mitchell plan there is prescription drug and long-term care covreage in return for those cuts. Under the Dole plan, no prescription drug or long-term care coverage is offered. So that is a very substantial difference: The Dole plan cuts Medicare and offers no long-term care, no prescription drugs; the Mitchell bill cuts Medicare but provides prescription drug and long-term care coverage. Major, major differences. The Dole bill not exactly the reform people want and need.

People who lose jobs, people changing jobs are simply out of luck with the Dole plan. Perhaps it boils down to a different understanding of what the word "insurance" means. I have with me Webster's Dictionary. I want to read what the word "insurance" means in the Webster's Standard Dictionary: "To guarantee protection and safety."

To guarantee protection and safety. To guarantee protection and safety. I repeat that because I fear that if we keep going the way that we are, or if we choose the Republican route, insurance will no longer mean a guarantee of protection and safety. Instead the word "insurance" will, more and more often, be linked with the words "abuse," "fraud," "loopholes."

Democrats want to restore the value of having health insurance.

Today, too many policies are downright dangerous—in fact, even hazardous to people's health care. Filled with loopholes and fine print that can leave you financially and physically ruined when the medicine or the care that you need is denied because your coverage is incomplete.

Remember those employees in the doctor's office spending their days on the phone to insurance offices trying to get permission for treatment? Well, they do not always get the answer yes. And when the answer from the insurance company is no, the American people are the losers.

Americans should not need a magnifying glass to understand what they are buying in a health insurance policy. We do not have to be auto mechanics to go out and buy a car and know that it will not blow up when we step on the gas pedal. We do not need to be chemists to buy pajamas for our kids and know that they are fire retardant. We should not have to be lawyers or insurance experts to be sure our health care coverage is worth the premiums we will pay.

Democrats want Americans to choose among a wide variety of good insurance plans. The Mitchell bill guarantees a choice of plans, and it also guarantees that the plans are sound.

Let me read to you some clauses from a couple of health insurance

plans. These are real health insurance policies—not from fly-by-night companies or tiny companies run out of the trunk of a car, but mainstream companies with well-known services that have limits and exclusions.

(The PRESIDENT pro tempore assumed the chair.)

Mr. ROCKEFELLER. Here is one example. I urge those listening to try to keep up with this as best they can. This is on page 6 under "Sickness," and it says:

Sickness means illness or disease of any insured which first manifests itself 30 days after the effective date of this policy and while this policy is in force. All sickness due to the same or related cause or causes which continues or recurs shall be considered one and the same sickness or "any one sickness" unless periods of confinement to a hospital or service, treatment or expenses incurred resulting from such Sickness are separated by an interval of at least 90 consecutive days—

At the beginning in the same paragraph, we had 30 consecutive days.

between the end of one such period and the beginning of a subsequent such period.

And then it says:

Any loss which results from hernia, disease or disorders of the reproductive organs, hemorrhoids, varicose veins, tonsils and/or adenoids, or ottis media shall be covered only if such loss occurs after this policy has been in force for a period of 6 months —

This is 30 days, 90 days and now 6 months, all within two sentences of one paragraph.

from the Effective Date of This Policy provided these Sicknesses are not excluded by rider and endorsement and these Sicknesses are not preexisting conditions.

Mr. President, this is absurd. The people of West Virginia are highly intelligent. But when you get something like this, it is impossible to understand what it means. This is what would be allowed to continue under the Dole plan and would not be allowed to continue under the Mitchell plan.

Just one more. On page 10—and there is a lot more reading here—there is something called "Exclusions, Exceptions and Limitations." And then it says: "Coverage is not provided under this policy for loss due to"

And then a list of things which goes on for 15 different exclusions. Number 6 excludes "childbirth or pregnancy." Childbirth or pregnancy cannot be covered.

It is just incredible to me that in America, if a woman gets married, then gets pregnant, does not have health insurance, and she and her husband go out and try to buy health insurance so they can have good prenatal care, they cannot buy it because they have—here it is—pregnancy is a preexisting condition. I do not think they would necessarily know that with this insurance policy unless they read it very, very carefully.

There is another exclusion here, number 5, which amazes me:

Participation in aviation except as a fare-paying passenger traveling on a regularly scheduled airline flight.

I can draw no conclusion from that except it means if you are in one of those cost-saving or frequent-flier plans, it may be that if you get sick, you are not covered. I do not know what that means, though I am trying my best to make sense of it.

I will read exclusion number 14:

The correction of a congenital anomaly or abnormality after an insured is age 19.

Congenital anomaly means that you had something all your life. It is congenital. Your insurance coverage is clearly, on this last issue, wiped out.

This should be very distressing to us all. This is a major company's insurance policy, and it is something that most people, would put faith in and surely accept. But indeed there is the work of the devil in the details. This is just outrageous.

I will just use one more example from another health insurance policy written by a major company. And on page 11, under "Limitations and Exclusions," it reads:

This certificate does not cover any charges for any services, treatment, or supplies: furnished as a result of, or in any way related to a Pre-Existing condition.

Mr. President, that is what the Mitchell bill eliminates and what the Dole bill allows to continue. And once again, here in another health care policy it excludes "for pregnancy or childbirth, except for Complications of Pregnancy."

Well, that means no prenatal care. And since it says "childbirth" is not covered, I assume it means no well-baby checkups.

Insurance policies are major forces in people's lives. And within this handful of insurance policies are some extraordinary exclusions and limitations which are stopped in the Mitchell bill yet which will continue in the Dole bill.

Some have argued for years against requiring seat belts in cars. They called seat belts expensive and unnecessary. Some still argue against helmets for motorcycle riders because they want the freedom to take risks with their physical safety, not necessarily understanding that their physical safety could coincide with the physical safety of another person.

The truth is that the costs for victims of accidents without seatbelts or without helmets are not borne by the individual who takes the risk—too often we all pay the cost for those reckless decisions. That is wrong

Those who argue today that we should allow dangerous and hazardous insurance policies to be sold using the rhetoric of freedom and choice are simply protecting insurance companies' power and profit. Nothing more.

We do not want any bureaucrat—no Government bureaucrat and certainly no insurance company bureaucrat—to decide what illnesses or accidents qualify for care.

If you buy insurance, and you go to your doctor and your doctor tells you that you have cancer or that you are suffering from depression or you have some other ailment, your doctor should not have to call any insurance company to ask for permission to treat you. It will not happen under the Mitchell bill and it will continue under the Dole bill.

Increasingly, that is the system that we have in this country. Insurance company bureaucrats blocking coverage for whole categories of services. I am not talking about legitimate arguments against questionable or experimental treatments. I am talking about the wholesale exclusion of whole categories of necessary care: Preventive care, prenatal care, pregnancy-related services, preexisting conditions, prescription drugs—all legitimate and necessary services, all denied today by health insurance companies.

Republicans want to protect insurance companies' prerogatives, speeding us on a path to insurance company dictatorship.

This is not just a fear for the future—it is a reality that many Americans are now living with.

I have visited with them in West Virginia. Whenever possible, I visit families that have some kind of health care problem so I can better understand their concerns and better represent them.

Let me just share a letter from a constituent who has been frustrated and exhausted by insurance company rules and insurance company control. In a letter written just 3 weeks ago, Clarence Wickline, of Peterstown, WV, wrote:

I have Blue Cross and Blue Shield insurance. They take it out of my check every week.

My daughter was scheduled for surgery last week. She had all of her blood work and everything done and was going to check in the hospital the next day. The insurance company called the surgeon and refused to pay for it. So she couldn't have surgery.

Clarence Wickline concludes with:

I really don't think it's fair. Thanks for listening.

That a straightforward letter from a straightforward West Virginian who pays his insurance premiums and gets left out in the cold the one time his family needs their insurance.

Now, there has been plenty of technical talk about reform over the past year—mandates, triggers, alliances, cost shifting, redlining. It is hard to keep track of all of it, there is so much of it. And for the American people watching us and following the debate, it must be pretty confusing.

I am trying to put reform in simple terms. In real-life terms that tell people how the different health care reform plans will affect them, because we

have two different plans—the Dole plan and the Mitchell plan.

If you are a middle-class, hard-working American consumer, the Mitchell plan looks out for you and delivers a real measure of reform that you will see. You can keep your plan or choose a new option, but no matter what, your insurance will always be worth the premiums that you pay for it.

If you are an insurance company, the Dole plan looks out for you. Business as usual. Loopholes for preexisting condition exclusions, limits on portability, higher premiums, no guarantee of choice—as full of holes as swiss cheese. In short, allowing this kind of insurance represents a reckless disregard, in this Senator's judgment, for public safety.

With those objectives, it is pretty clear that the Mitchell plan, in this Senator's judgment, is a moderate, thoughtful, and sensible approach that seeks to be effective but not intrusive. It makes sure insurance will be, for you and your kids, "a guarantee of protection and safety." And you and your doctor will always know that your insurance will provide the care that you need. Insurance company bureaucrats will not be able to cut you off.

That is meaningful reform. That is real reform for real people who I represent. It is not enough to say, as Republicans do, that we want you to keep your insurance. Getting to keep something labeled insurance that is gutted and loophole-ridden and weakened is not worth much. But that is what the Republican plan will do.

For all of those people whose letters that I read earlier, and the millions of others whose letters and phone calls we get, we must pass reform that makes health insurance a dependable, sure thing, not a gamble left to the whim of insurance companies.

I thank the Presiding Officer. I yield the floor.

Mr. MITCHELL. Mr. President, I hope in a few moments to be able to announce or propound a unanimous-consent agreement with respect to further proceedings on the pending amendment.

I know the Senator from Indiana was going to seek recognition. I merely request that we are ready to proceed, if he would permit us to go ahead and propound the agreement.

Mr. COATS. Mr. President, I would be happy to accommodate the majority leader's request in that regard.

Mr. COATS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, Senator MACK and I have an amendment at the desk which I think would most appropriately be entitled "Let the sunshine in."

In 1972, the Congress enacted an important act which has greatly contributed to openness and accountability in the executive branch. It is called the Federal Advisory Committee Act.

That act requires that any Presidential or executive task force, which includes private citizens, conduct its meetings in public. Let me restate that. The Federal Advisory Committee Act requires that any Presidential or executive task force, which includes private citizens, conduct its meetings in public.

The requirements of the Federal Advisory Committee Act, I think, are reasonable—Congress has determined that—and are there to ensure that the public, not included in those meetings, have access to Government activities which will directly affect their lives.

The Congress now has for over 20 some years upheld that particular statute. I think it is important. What it means is that all meetings will be open to the public. This is a Government of, by, and for the people. We can only assure that right, if the people are given access to what this Government is saying and doing.

The act requires that there be advanced notice of meetings. The act requires that the public be informed of the agenda of the meetings.

That means in this case that decisions made relative to medical care for 250 million-some Americans, whether it be the benefits that they will be entitled to, whether it will be medical services that are deemed appropriate and necessary, whether it be the cost of certain procedures, that those decisions, some affecting the most personal of all matters that affect our daily lives, be decided in a forum whereby the public is aware of the agenda up for discussion, where it has an opportunity to comment, where it has an opportunity to respond, testify, and to file statements; that those meetings be open to the general public. Records would have to be kept as mandated under FACA. The minutes, working papers, drafts, subsidies, et cetera, would be made available to the public.

I note that the majority leader is seeking recognition. I would be happy to suspend at this particular point.

The PRESIDENT pro tempore. Without objection, the Senator will retain his right to the floor.

The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague.

ORDER OF PROCEDURE

Mr. President, I have discussed with the distinguished manager of the bill, Senator MOYNIHAN, and the minority manager, Senator PACKWOOD, and others how best to proceed.

The pending amendment is amendment No. 2568 offered by Senator MACK. The amendment is not disputed. We are prepared to accept the amendment without further debate and by voice vote.

I inquire of my colleague from Oregon whether that would be agreeable for our colleagues, or whether they wish a vote on it, and further amendments?

Mr. PACKWOOD. No. We would like to vote on it. When I talked to the majority leader earlier he was saying 6 o'clock or so. I ran it by our side. We would like to vote at 6:45, if we could.

Mr. MITCHELL. Accordingly, then, Mr. President, I ask unanimous consent that the Senate vote on the Mack amendment at 6:45 p.m. today; that the time between now and then be equally divided, and under the control of Senators MOYNIHAN and PACKWOOD, or their designees; that no second-degree amendments to the amendment be in order, or amendment language may be stricken by the amendment; further, that following the vote on the Mack amendment I be recognized to offer the next amendment.

Mr. COATS. Reserving the right to object, just for a matter of clarification, I do not know if Senator MACK asked for the yeas and nays on the vote. My understanding is that there will be a recorded vote at 6:45 p.m.

Mr. PACKWOOD. We will ask for the yeas and nays. There will be a recorded vote.

I might say to the majority leader, the amendment is perfectly acceptable. It is one that I think will have good support, and is not a surprise amendment.

Mr. MITCHELL. Mr. President, I want to make clear that this vote at 6:45 will not be the last vote. We will continue.

Mr. PACKWOOD. As the majority leader indicated, he is hoping we will accept his amendment. I indicated there might be some people who would want to talk it, and would want to vote on it tonight.

The PRESIDENT pro tempore. Is there objection to the request? The Chair hearing no objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleague. I thank the Senator from Indiana.

The PRESIDENT pro tempore. As the Chair understands the request, the time beginning now is equally divided, which includes the time which will now be used by the Senator from Indiana.

Mr. MITCHELL. That is correct.

Mr. PACKWOOD. It does not include the time used today, but equally divided from 2:30 on.

I yield further time as the Senator may require.

The PRESIDENT pro tempore. Is it the Chair's understanding that the time that will be used by Mr. COATS will be charged against the time under the control of Mr. PACKWOOD?

Mr. PACKWOOD. No. The time that he has used to date is not charged, and it starts running right now.

The PRESIDENT pro tempore. The Chair thanks the Senator.

The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, I thank both the majority leader and the managers of this bill.

Mr. President, to pick up where I was, we were discussing the Federal Advisory Committee Act.

I noted that it was an important act that was enacted by the Congress in 1972. The purpose was solely to give the right of the American people the opportunity to know what was being debated by members of the executive branch that affected their interests. They would have the right to know what the agenda of the meeting was, and they would have the right to receive minutes of the record. They would have the right to insist that such meetings be held in public.

It is important, particularly in the context of the legislation that we are talking about now because, while most Federal meetings obviously have an effect on some Americans, when and if the legislation here regarding health care is passed, particularly if the Mitchell bill is passed, the decisions will be made that are among the most, if not the most sensitive, and the most intimate, regarding not just a few but all Americans. It is important that our Government continue to allow each of us who are affected by these decisions the opportunity to comment and respond.

We have heard, time and time again, that the bill before us is not a Government-run bill. As I have pointed out on this floor, there are 55 new Government agencies created by the bill that is before us—55. I have detailed and outlined those by section. There are 815 new duties that flow to the Secretary of Health and Human Services and 83 that flow to the Secretary of Labor. But I am especially troubled by the fact that in the creation of two of these agencies—perhaps the two most powerful agencies—perhaps the two new agencies that have the most influence over the personal lives of more than 250 million Americans, those agencies being the National Health Benefits Board and the National Health Care Cost and Coverage Commission. Those two agencies will be exempt from the provisions of the Federal Advisory Committee Act. That means that the decisions of those agencies will not be available to the public for scrutiny until those decisions have already been made. It will be a fait accompli. What is deemed medically necessary and appropriate, what prices, what price controls, what cost controls may be placed on the development of new technology, new innovations, and the diagnosis and treatment of disease, those decisions will not be available to the public under the provisions of the Mitchell bill.

I think that is wrong.

So the purpose of the amendment Senator MACK and I are offering is to strike those two sections—actually, we are striking three sections, and I will explain the third in a moment—because that opens up the decisionmaking process to the public.

Let me describe what the National Health Benefits Board does. Under the Mitchell bill, the National Health Benefits Board is given the authority to decide what benefits will be contained in the standard benefits package that every American will be required to purchase. Everyone offering a health care plan in America will be required to incorporate the decisions of the National Health Benefits Board as to what those benefits shall be. There will be no opportunity for discretion.

Fortunately, yesterday we removed a provision which would have fined any provider of health care $10,000—or any individual who purchased health care would have been fined $10,000—if that provider or that individual had a health care policy that deviated in terms of benefits provided, deviated one iota from the decision of the National Health Benefits Board as to what the package should be. It is a one-size-fits-all mentality. If you are an 18-year-old single individual, just out of school, on your first job, earning perhaps a lower wage than you would like, but the going rate for a new hire, you are going to be mandated to have coverage for a package designed by the National Health Benefits Board. That package is the same package that will be available to a married couple with two children, and it is the same package that will be mandated to individuals whose children are grown, who might be in their retirement years. Every American will have to have exactly the same package, regardless of your health care needs.

Obviously, we know that the insurance industry today and the health care coverage today is designed with a whole cafeteria of benefits that you can select and choose based on your own particular health needs or the health needs of your family. Obviously, there are those who do not choose certain lifestyle behaviors, who would like to have the opportunity to purchase health care at perhaps a discount by not engaging in those behaviors. So there are policies today that are available to those who do not smoke. We know that that lowers their health risk, the risk of lung cancer, and so they are able to reduce their premiums somewhat.

Obviously, an individual or a couple, where the female of that marriage is past childbearing age, does not need to have a policy covering childbirth and does not need to have a policy providing maternity benefits, and, therefore, they can purchase policies that exclude that particular type of coverage. It is that selection, that wide array of benefits and opportunities for different benefit packages, that is an important competitive component of our health care system today. Yet, the Mitchell bill would require that we all obtain exactly the same benefit package.

Those decisions are going to be made by the National Health Benefits Board, and the public ought to have input as to what those decisions are. Yet, there is a specific exclusion for that board's actions, based in the Mitchell bill. On page 129, section 1216 is "Applicability of Federal Advisory Committee Act." It says on line 15: "The Federal Advisory Committee Act shall not apply to the Board"—the board being the National Health Benefits Board. The Federal Advisory Committee Act is specifically exempted, and all its provisions, from actions by the board. We do not think that is right, and that is why we attempt to strike it.

The National Health Care Cost and Coverage Commission is the Government-appointed rationing agent which is authorized to monitor all health care expenditures in the United States and propose premium caps and other mechanisms to control prices and limit health care spending. This Government bureaucracy will be making hundreds of health care decisions which affect the health care of every American. Decisions which are currently made by patients and their families and their doctors will be made by bureaucrats in Washington.

That particular board is also exempted from the provisions of the sunshine law, the law that I have been referring to. The Federal Advisory Committee Act does not allow these practices to take place. I might note that it is in section 10001, page 1390.

Mr. President, one of the reasons why we insisted on some time to understand this bill—and just now we are able to delve into the minutia of the bill and expose provisions which we do not think are in the best interest of Americans—is because it is so complicated. When we are talking about section 10001, we are talking about a lot of words between the first section and that section. That section also specifically exempts a new Government agency, the National Health Care Cost and Coverage Commission, from the FACA. That language reads on page 1409, specifically: "FACA Not Applicable. The Federal Advisory Committee Act shall not apply to the Commission."

There is another somewhat more obscure agency, called the Agency for Health Care Policy and Research, created in this bill. That panel is also exempted from portions of the sunshine law. It is somewhat different, but we strike that also, because it says that that particular agency is covered by this provision. It says:

> Panels convened for the purpose of carrying out paragraphs (1) and (2)—

Which refers to the actions of the Health Care Policy and Research Agency.

> shall not be considered advisory committees within the meaning of section 3(2) of the

Federal Advisory Committee Act, and prior to publication by the Administrator, clinical practice guide, performance measures, and review criteria as described in section 912(a) are not subject to the requirements of section 552 of Title 5, United States Code.

They are exempted from the provisions of the act. So the amendment before us is designed solely for the purpose of giving the public access to decisions made by Federal boards created under the Mitchell bill which will affect every living American.

I am pleased to join my colleague, Senator MACK, in offering this amendment. We think it is important. We have reason to believe that Senator MITCHELL and his proponents have had an opportunity now to review the bill and apparently will agree with us that this amendment is necessary to correct provisions that are incorporated now in the Mitchell bill.

Senator GLENN, the distinguished chairman of the Senate Committee on Governmental Affairs stated:

I do know that openness in Government spawns confidence. Secretiveness in Government begets suspicion, and that is what I think we have a surplus of in Washington right now.

Mr. President, openness does spawn confidence. Secretiveness does beget suspicion. And we do have a surplus of suspicion in Washington right now. It is almost paralyzing our efforts.

We keep hearing several of our colleagues talk about the numerous public hearings held in the Labor Committee and Finance Committee on health care reform. But yet we are presented with a bill that is not the Labor Committee bill nor the Finance Committee bill, but a new bill written behind a closed door, written in secret—true, incorporating provisions of the Labor Committee bill and the Finance Committee bill—but with many new provisions.

So when it is presented to us, first in volume 1, then in the corrected volume 2, and then in the corrected volume 3, I think it is perfectly appropriate to ask for time to study this mammoth volume and understand the provisions, as we have done in the last 2 or 3 days.

We are now beginning to shed light on the Mitchell bill and as light is shed on the Mitchell bill, we find provisions that not even the majority can support or defend, and they are coming to the floor saying either, "Yes, that is there inadvertently," or "We now recognize it should not be there, and we will join with you, almost unanimously join with you, in removing that section."

We have removed the $10,000 fine for an employer offering an additional benefit to an employee. Perhaps an employer says, "I do not agree with the National Health Benefits Board. I would like to offer two mammograms per year to my female employees over 50 years of age." That would have been subject until yesterday to a $10,000 fine for offering an additional benefit. Perhaps there is something unique about the business of that particular employer and they want to provide a benefit that the board has overlooked or excluded for whatever reason. That employer would have been subject to a $10,000 fine. Fortunately, we have been able to eliminate that.

This now goes to the heart of the secret matter, the meetings in secret. This whole row started, of course, back last year with the meetings with the First Lady and Mr. Magaziner. There is now a Federal lawsuit on the matter. That was attempted to be settled. But I think there is interest in receiving the documents that were part of all that discussion. That is now in Federal court. I will not delve much into that.

But what we are after here is openness. If we are going to define the benefits, if we are going to define the costs, if we are going to define the procedures, if we are going to make the decisions that go to the personal, intimate details of individuals' lives or loved ones' lives, it ought to be done in the open.

Mr. President, I will close by quoting from Justice Brandeis, who said, "Sunshine is the best disinfectant." We are now in the process of letting the sun shine on the Mitchell bill, and we are finding that it is a great disinfectant. There is a lot of infection in here that needs to be disinfected.

Mr. President, let the sun shine in.

With that, I yield the floor.

The PRESIDENT pro tempore. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I enjoyed my colleague's statement.

The PRESIDENT pro tempore. Who yields time?

Mr. PRYOR. Mr. President, I think I am managing for the moment. So, I yield myself as much time as I need. I just have a question.

The PRESIDENT pro tempore. The Senator is recognized for as much time as he needs.

Mr. PRYOR. Mr. President, I enjoyed the statement of the Senator from Indiana. He is talking about letting the sun shine in, letting all Government decisions be made out in the public in the sunshine, in meetings, et cetera; meetings with the First Lady.

I wonder if the Senator from Indiana would state his position on how much sunshine there should be present when two U.S. Senators meet with a Federal judge. Should that meeting be in the sunshine? Should that meeting be in public, I ask the Senator from Indiana?

Mr. COATS. Mr. President, if that is a question propounded to the Senator from Indiana, I will be happy to respond to the Senator.

First of all, it is a question that we are not deciding here today. Obviously, it would be nice to shift the focus from what the amendment says and what we are attempting to do with the Mitchell bill. On that, however, a vote has been ordered so Members of Congress all have the opportunity to comment on that.

Mr. President, I have no idea what two Members of Congress discussed with a member of the Federal judiciary over lunch. I was not at that meeting. I was not invited to that meeting.

If the question is, does a U.S. Senator have the right to have lunch with a member of the judiciary to discuss the baseball strike, to discuss family—perhaps they are from the same State and they are personal friends: How is the family doing; how is your wife; how are the kids since we have seen them last—I think they should have every opportunity and right to do that.

I have no idea what was discussed in the meeting that the Senator from Arkansas is raising. And so whether or not his question is even applicable to the situation which we are discussing now, I have no idea.

Mr. PRYOR. Mr. President, I do not have any reference, when I asked the question through the Presiding Officer, I have no specific reference to a particular meeting between a Federal judge and two U.S. Senators.

What I would like to assure the Senator from Indiana is that I strongly support the amendment giving this additional sunshine into these particular boards and these meetings. I support that position. I am going to vote for it.

But I just wondered how far the Senator from Indiana wanted to carry this, and how much sunshine the Senator from Indiana wanted to actually penetrate some of these decisions and some of these so-called meetings that affect people's lives.

Mr. COATS. Mr. President, if I could respond to the Senator from Arkansas, clearly when Congress has established an agency or a function of Government that comes within a law that Congress has passed, and that agency is making decisions relative to things which affect Americans, I think we want to uphold the law and not exempt that agency from discussion and debate that affects their lives.

But it is impossible for this Senator to say, well, every meeting between a U.S. Senator and some other representative of Government—for instance, we have a new special prosecutor in the Whitewater case, Kenneth Starr. We go to church together. Now, sometimes after church, we happen to run into each other leaving church.

Is the Senator from Arkansas saying that if I say hello to Mr. Starr on the way out of church, that should be a public meeting, or if he says "How is the family?"—our two sons play Little League baseball together, so we have gotten to know each other on an informal, personal basis—is that meeting supposed to be subject to the open sunshine law?

What if Mr. Starr said, "How about breakfast in the morning?" We both live out in the same area. "How about

getting together for bacon and eggs at McDonald's, or a cup of coffee?'' Am I supposed to give notice that we are meeting, that the public is invited, and that minutes should be taken of our discussion?

I am not sure what the Senator is referring to.

Mr. PRYOR. Mr. President, I am not sure this argument is really going anywhere, and I will conclude and yield to my friend from Pennsylvania.

But I do think serious questions arise when Members of this body meet with a U.S. Federal District Judge or a member of the court of appeals, or what have you, relative to a matter which might or might not be pending at the moment.

If I might ask the Senator from Indiana one final question along this line; that if the Senator might support maybe an amendment or maybe a clarification of his amendment to include such meetings between U.S. Senators and a Federal judge?

Mr. COATS. Well, Mr. President, I think a good question has been propounded to the Senator from Indiana. I think if the Senator from Arkansas has a concern about meetings between Senators and other Federal officials, that Senator should offer an amendment addressing that concern.

Right now we are dealing with an amendment to the Mitchell health care bill which specifically goes to two agencies, three agencies, actually, that are created in the bill. It is a written provision in this bill that states that those agencies will be exempt from the law.

I think Congress wants to uphold that law in regard to the meetings with Federal agencies that involve the public, particularly when they meet to decide questions that are so personal and go directly to their health. That is the issue before us.

If the Senator from Arkansas wants to address a separate issue relative to whom Senators can meet, when they can meet, under what conditions they can meet, I think that is a subject for lengthy debate. We are going to have to understand what it is exactly the Senator is propounding. Does it include lunch in the Senate dining room? Does it include a casual greeting at church? Does it include a conversation in the dugout at the little league field? Does it include riding on the same plane where you happen to sit next to each other in the seats in the plane?

I am not sure what the Senator is getting at. I do not have any idea why two Senators in the U.S. Senate, what the purpose of meeting with the Federal judge was in the Senate dining room, what they discussed. And so, I guess I am at a loss to respond to the Senator from Arkansas, because I do not know what it is he is asking us to do.

Mr. PRYOR. Mr. President, I would just like to conclude by saying that we will probably never know what was discussed, because it was not in the sunshine, it was not in a public forum, the particular meeting that the Senator brings up.

But with that in mind, Mr. President, I just want to reassure the Senator from Indiana that I support his amendment. I think it is a good amendment. I think there will be a lot of votes for that amendment. I assume it will prevail.

Mr. President, I yield as much time to the Senator from Pennsylvania as the Senator from Pennsylvania so desires.

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. WOFFORD], is recognized for as much time as he may consume under the control of the Senator from New York [Mr. MOYNIHAN], or his designee.

Mr. WOFFORD. Mr. President, I, too, am happy to support the amendment of the Senator from Indiana and the Senator from Florida. I think the amendments so far presented and adopted in this body have thrown light on the problem—the preventive care for children and pregnant women amendment; the amendment ending the fine proposed, instead allowing my preference of letting State insurance regulations prevail as the main method for compliance; major steps forward in building on the rural health delivery provisions in the Mitchell bill. These were all good steps.

And I am happy to see that we will have a sunshine provision applying to the agencies in the bill.

It seems to me, Mr. President, that indeed our duty right here in this body is to throw light—I hope it is sunshine—on the problem and on the issues. Because the people certainly have been enduring a fog of confusion that, outside this body, if not within it, has spread over this vital problem of guaranteeing for all Americans the kind of health insurance options in the private health insurance system that we Members of Congress enjoy and benefit from and have arranged for ourselves.

That duty of ours to throw light is made heavier because on this issue, which is so vital to one-seventh of our economy, a study of the whole lobbying and advertising effort by the Annenberg School of Communications at the University of Pennsylvania, has concluded that more money has been spent on the onslaught related to this bill and the President's bill than in the whole Presidential campaign of 1992 for Bush and Clinton combined.

So, indeed, we have a duty to throw light and to cut through the fog of confusion.

And we will need to throw that light on the issues that the Senator from Indiana also moved into about why we need a standard benefits package, not to create one size fits all. It is not to limit people from going beyond what the minimum standard benefits package is. People can do that. No one is proposing taking that away in any form. But it is necessary, among other reasons, to give consumers the kind of protection from lemon policies and dishonest insurance companies, the kind of proper protection that Members of Congress have.

We need basic standard benefits and consumer safety in lots of fields in our life. You can get any size or flavor of baby food, but not baby food that has glass in it. Cars; we can choose any make of car, but it must include safety belts. Kid's pajamas, any size or color. They cannot be a pajama that is going to burst into flames.

And, as to health insurance, we need to see that fee-for-service, HMO, or preferred provider choices are available. But that we do not have the fine print and loopholes that can cut you off just when you need it, which is as bad a crisis to any individual or family as any of the examples I just gave.

So, let us cut through the fog of confusion. Part of the need for sunshine, I believed, when I came to this body 3 years ago, was on what the benefits are that the Congress had arranged for itself. I found, through a friendly letter from the attending physician, that we had free health care through the attending physician, while working families certainly have no such free medical care.

Well, we fixed that. We got rid of the free health care Members used to get from the very fine office of the attending physician that we have. Now we pay an annual fee for that extra service, along with our contribution to the health insurance plan of our choice.

But, apparently, some of our colleagues still do not understand what working families go through; that, in this very period of talk, it is estimated that some 700,000 Americans have lost their health insurance in less than a week and a half, but no Member of Congress has lost his or her health insurance during that period.

Up in Pennsylvania, I have been pressing a very simple proposition, that our duty in this great debate is to see that we extend to all Americans the kind of affordable coverage and choice of private health insurance plan that Members of Congress have arranged for themselves.

Mr. President, I find that that proposition does more to cut through the fog of confusion than all of the complexity that is being used as an excuse for doing nothing. It reminds me of a proposition I put forth in 1991 that the people of Pennsylvania responded to. If under our Constitution you have a right to a lawyer when you are charged with a crime, it is even more important to have a right to see a doctor if you are sick. People exploded with recognition of this self-evident truth. And I

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am finding today up and down Pennsylvania there is that same kind of igniting of people's reason, leading them to say yes. Leading them to say "Yes, that's right," when I say that it is self-evident that the kind of choice of private health insurance that Members of Congress have should be the model for the kind of choice the American people deserve to have.

Mr. REID. Will the Senator from Pennsylvania yield for a question?

Mr. WOFFORD. I will happily yield to the Senator from Nevada.

Mr. REID. The Senator from Pennsylvania has raised an interesting point.

I ask the Senator if he believes that one reason our health care package has hit such a hard note with the American public is because under our plan, our employer, the taxpayers of the country, pay 72 percent of our premiums? Is that true?

Mr. WOFFORD. That is true. That is the average. That is the average portion, depending on which plan you choose. It is not a one-size-fits-all plan. You may choose a fee-for-service plan that might be a little higher, an HMO plan that might be less, and the proportion of the Federal Government's contribution varies according to that. But the average contribution is 72 percent. For the standard option Blue Cross & Blue Shield, the most popular choice, it is a 75-percent contribution from our employer.

Mr. REID. That is what this Senator has. Would the Senator agree that one reason the American public likes our plan is because it prohibits preexisting condition exclusions?

Mr. WOFFORD. It does.

Mr. REID. Would the Senator agree that is a reason the American public likes our plan?

Mr. WOFFORD. It does.

Mr. REID. Probably——

Mr. WOFFORD. May I read from the plan? This is what I would like the American people to hear because I think they would like it: Coverage without medical examination or restrictions because of age, current health or preexisting medical conditions.

Mr. REID. In fact, would the Senator agree that millions of Americans are envious of our health care plan? Would the Senator agree with that?

Mr. WOFFORD. As they learn about it, as we put some sunshine on the kind of system that we have arranged for ourselves.

Mr. REID. Would the Senator also acknowledge that one reason our plan is so important to us—and I would assume the American public would like it also—is because, as the Senator has so well stated, there is a choice of plans?

Mr. WOFFORD. There is a choice of a whole menu of plans. Do you recall how many you had to choose from?

Mr. REID. So many I could hardly keep track of all of them.

Mr. WOFFORD. My wife tells me it was 25 or 30 different plans, Blue Cross & Blue Shield, Aetna, a whole variety of HMO's.

Mr. REID. Is the Senator also aware that one of the things in Senator MITCHELL's bill that is patterned after what we have, and that is that when people are provided the choice, if this legislation passes, like the Federal plan, there would be comparative information on price and coverage?

Mr. WOFFORD. That is what we all need in order to choose well. And we are given it. In fact, I think the Federal employees plan could do a little better job, but as we begin to think through how to make our system better, and once we have a standard benefits package in this country, I think any agency that is helping to provide choices—whether they are new, voluntary purchasing cooperatives or the Federal Employees Health Benefit Plan open to people—will give more consumer information, therefore more real choice to people, to know how to choose well.

(Mrs. MURRAY assumed the chair.)

Mr. REID. Would the Senator also acknowledge one reason our plan—and I ask the Senator if he would agree—works so well is because it is a community-rated system? That is, no one is discriminated against because they are of childbearing age or they are senior citizens. There is no discrimination as to age or gender. Is that true in the plan that we have?

Mr. WOFFORD. Yes.

Mr. REID. I also ask the Senator—in our plan, it is my understanding that the overhead costs are extremely low. In fact, our plan, which has, including all the rest of the employees, about 9 million employees——

Mr. WOFFORD. And their families; including their families.

Mr. REID. And their families. It is my understanding that plan is administered by fewer than 200 people; is that true?

Mr. WOFFORD. I think the last I heard it was something like 170 employees.

Mr. REID. Yes. So would the Senator agree that for these and many other reasons, the American public is beginning to focus on what we have and what they do not have?

Mr. WOFFORD. As they should be, it seems to me, Senator.

Mr. REID. I would just close by rhetorically stating to the Senator, there has been no Senator in the U.S. Senate who has raised this issue earlier or more loudly than the Senator from Pennsylvania. The Senator from Nevada applauds the outstanding work the Senator has done in trying to bring this out into the open and put some sunshine on it.

Mr. WOFFORD. I appreciate the kind words. In addition to being loud and early, I hope the proposition is clear. And this is the way I would put the question to our colleagues who are saying there should be no such system made available to the American people; that it should not be guaranteed, the kind of guaranteed health insurance we have for the American people, with the employer contributing about three-quarters.

I say to my colleagues on the other side of the aisle, support the plan you live under or live under the plan that you seem to support.

Mr. LEVIN. Will the Senator yield for an additional question?

Mr. WOFFORD. I will yield to the Senator from Michigan.

Mr. LEVIN. Among the many points which have just been made in the conversation between the Senator from Pennsylvania and the Senator from Nevada, there was a reference to a number of private insurance companies. I think that is an important point. I want to make sure we are correct, that the Government plan that was made reference to, the so-called Government plan that we have, is a private insurance plan. We have a whole menu of private insurance that we are offered through a Government plan. But it is not Government-run insurance. Is that correct?

Mr. WOFFORD. The Senator has made a crucial point for people to understand.

Mr. LEVIN. We hear over and over again, Government-run insurance, Government-run health insurance. That is the attack on the Mitchell bill, despite the fact that the Democratic leader has over and over again gotten up and said this is not Government-run insurance. This is private insurance which, hopefully, will be made available to every American the way private insurance is made available to Members of Congress, our families, and all Federal employees.

So I wanted to be sure that point is clear, that the so-called Government insurance that is made available to us is not Government-run insurance. It is made available to us by the Government—mostly at taxpayers' expense—but it is private insurance. All those companies with all those plans that are offered to us on that menu are private insurance.

Mr. WOFFORD. One reason our premiums are reasonable is that, with that big purchasing power of a pool of 9 million people, Madam President, with that big purchasing power, those insurance companies are competing for our business and we have the choice, an opportunity within 31 days from the date of your appointment, to enroll in the health benefits plan with group-rated premiums and benefits, a choice of plans and options so you can get the kind and amount of protection best suited to your personal and family and health needs and finances; guaranteed protection that cannot be canceled by the plan.

Mr. LEVIN. One final question I could perhaps ask and that is the reference in the first paragraph, "An opportunity within 31 days from the date of your appointment to enroll in a health benefits plan." That is a private insurance health benefits plan; is that correct?

Mr. WOFFORD. Yes. The most popular one chosen, as chosen by the Senator from Nevada, is the standard option Blue Cross & Blue Shield plan.

Mr. LEVIN. I thank the Senator.

Mr. WOFFORD. That is what Congress gets. Yet our Republican colleagues are getting hoarse talking about the dangers socialized medicine and a Government bureaucrat telling them what doctor to go to. They do not have Government-run health care that tells them what doctor to go to. They have this range of private health insurance options. Not only the year they enroll, but they have it every year. They can vote with their feet. They can choose and they can make these plans compete for our business, which is one reason, I think, we like this.

Some may have heard that I, myself, as a sign of how serious I am about winning this battle that Harry Truman started for private health insurance, a little while ago sent my first check back to the Treasury of the United States for $306.41, the Government's, my employer's, the taxpayers' contribution to my health insurance. I sent it back and said I am going to continue doing so until we win this battle and the American people have that kind of choice of private health insurance.

I have not seen any volunteers. I challenged my colleagues who will not even discuss, will not consider a rule, even in the year 2001, by which employers are asked to contribute—the way most people with private health insurance in this country today get it. They get it with the help of their employer. I challenge them to practice what they preach. If they do not believe that the American people should have that kind of choice of private health insurance plan, then give it back. Give it back to their employer, the American taxpayer. I will renew that challenge from time to time. So far there are no takers.

I went a little beyond that the other day, and I am serious about this, too. If in this battle—is this the battle of Gettysburg? I come from the State that saw the Civil War battle surge right into our State. I do not know whether this is the battle of Gettysburg. I do not know how far we are in the war. I thought we were further along than we seem to be at this moment and this hour, in that long battle Harry Truman started.

But if we should get blocked this year and this Congress by the naysayers, if we get blocked, I will offer an amendment to disqualify every Member of Congress from participating in the Federal employees benefits plan until we take action so that the American people have that kind of protection and guarantee.

Let me tell you, if we are going to end up having more study, then let us study it while we are on the same playing field as the American people. When they go to sleep at night, they are afraid if there is great restructuring—we had two great corporations announced thousands of new jobs that are being lost in Pennsylvania just this very week. All of those families now have had the fear come to them as a reality that they are one pink slip away from losing their health insurance.

If we are going to study more, if we get blocked in taking action, let us study with that kind of fear over ourselves and that kind of heat below us. Let us be on a level field with the American people. That is why the Mitchell bill, I think, among the many other ways, is reasonable, moderate, good, has responded to the concerns that people have had, has disposed of some of the problems that many of us had, for example, took the mandatory alliances off the field—that horse was taken off the field, even though it continues to be flogged.

What we have is voluntary purchasing groups that give the American people the kind of purchasing power that we, Members of Congress, enjoy. And we have opened up the Federal employees benefits plan to small business and individuals so they can actually buy into the Federal plan if they want to have that as one of their choices.

That is why I say we have it within reach to get private health insurance for the American people, private health insurance the way Congress has arranged for itself.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I wonder if the Senator will yield for a question?

Mr. WOFFORD. I yield to the Senator from Arkansas.

Mr. PRYOR. Madam President, I would like to compliment the distinguished Senator from Pennsylvania on his statement. I hope I have not interrupted him at a bad time. But I first ask the Senator from Pennsylvania if he had the opportunity to hear a speech yesterday by the distinguished majority leader. In my opinion, it was the best political analysis of where we are at this moment on this particular issue. I wonder if the Senator had the opportunity to hear his very fine statement.

Mr. WOFFORD. I did, and I agree with the Senator from Arkansas. As one who has lived, breathed, eaten, stayed up at night on this issue for now 3 years in this body, I think it was the most important, perhaps, single speech in this debate, and I urge every one of my colleagues who missed it to read the majority leader's talk yesterday.

Mr. PRYOR. Madam President, if I might have a few more moments of the Senator's time, I think it is worthy to quote a paragraph or two from Senator MITCHELL's speech of yesterday, if I may have the liberty to do that. And I do quote from Senator MITCHELL's speech as follows:

> So I hope the American people will not be fooled by the rhetoric they are hearing here today. And I hope the American people will also think about the irony of these Republican Senators getting up here day after day after day and denouncing Government health insurance and Government health care as bad for their constituents, even as they benefit from it themselves . . . participates in the Government-run health insurance system that is available to all Federal employees, and the Government pays 72 percent of the cost of that health insurance for these Republican Senators who are standing here and telling their constituents that it is bad for their constituents, even as they participate in it for themselves and for their families.

I am wondering, because the Senator from Pennsylvania had great experience in this whole issue of health care from the time of many years ago—especially highlighted in his campaign, his brilliant campaign, I might say, when he was elected to the Senate—I am wondering if the Senator from Pennsylvania has heard of any of our colleagues on the Republican side, or even the Democratic side of the aisle, canceling their particular Federal Employees Health Benefits Program?

Mr. WOFFORD. Not yet, but let the heat go higher.

Mr. PRYOR. I want to say I think what the Senator from Pennsylvania has done has been very unique in, basically, saying that until we pass something, the Senator from Pennsylvania is not going to participate in it. I admire the Senator from Pennsylvania very much in doing that.

I think yesterday Senator MITCHELL, in his statement, also talked about Walter Reed Hospital, and the Bethesda Naval Hospital. I quote again from Senator MITCHELL's speech:

> If Government health care is so bad, why do these Republican Senators insist on having it for themselves? And then if they get sick, if the doctor says, "You've got to go to the hospital," they go to Bethesda Naval Hospital or the Walter Reed Army Hospital—Government hospitals.
>
> Well, my gosh, ask yourself, Mr. and Mrs. America—

So spake the majority leader yesterday—

> if these Government facilities are so bad, why do these Republican Senators want to go there themselves?

Madam President, I think Senator MITCHELL's speech was a timely speech. It was certainly one, I think, that was timely to the extent it sort of set the record very clear on what we are doing here at this moment on the health care issue. I did not want to take all the

time of the distinguished Senator from Pennsylvania. I, at this time, relinquish the floor back to him.

Mrs. BOXER. Will the Senator yield to me for a question?

Mr. WOFFORD. I yield to the Senator from California.

Mrs. BOXER. I just want to thank the Senator for raising this issue. It makes a lot of people uncomfortable around here because they have something for themselves and their families, but they are standing here and basically saying they do not think the American people should have what they have.

It reminds me, when I was growing up—that was a long time ago, I say to my friend—we used to have an expression, a shuck and a jive, and that meant you are kidding somebody. It was like somebody would come over to you, I say to my friend from Pennsylvania, and say, "I live in a beautiful home. It's a large home. It has six bedrooms. It has a swimming pool. It's fully air conditioned. It's fabulous."

And the person says, "Gee, I'd just love to have a place like that."

And the person looks at you and says, "Oh, but there's so much maintenance. It's really rough. If I were you, I'd just stay where you are. You don't really need to live like me because, you know, it may look good on the outside, but on closer inspection it's not so good."

That is a shuck and a jive, because the American dream is to have a home and to have health care and to have a reasonable job, a good education for our kids. When someone tells you, "It's good for me but not for you," you have to start worrying about it.

I think yesterday when the majority leader made that statement which was quoted by my friend from Arkansas, it hit to the nub of it. It hit to the nub of it.

So I ask my friend this question, and I do not like to use the word "hypocrisy" because it is not a nice word, so I will not. But I would say to my friend, does he believe that when a Member of the U.S. Senate stands up here and says that that Senator does not believe the American people deserve to have health care that can never be taken away, health care that is basically a benefits package that is reasonable, one in which the responsibility is shared by the employer, and the irony of it is, these Republican Senators see nothing wrong with the taxpayers paying for their insurance because our boss—our boss—the people of America—they are the taxpayers—and they pay that share, they see nothing wrong with it? I do not know whether they have given it up. I do not think so. Outside of the Senator from Pennsylvania, I have not heard of anyone else.

Does the Senator think that is—not to use the word hypocritical—shall we say, a little suspect? Would the Senator say that a person's motives might be a little suspect or a little bit—I do not want to characterize it in a way that will hurt my friend because that is not the point here—a little disingenuous, perhaps a little disingenuous, when he has good health care for himself and his family, he sees nothing wrong with taking it, his employer pays for it, and yet he does not want to have that for the people in his State? Does the Senator see something a little disingenuous with that?

Mr. STEVENS. Madam President, will the Senator yield?

Mrs. BOXER. I ask that question to my friend from Pennsylvania, who has raised this issue.

Mr. WOFFORD. May I respond first, if the Senator from Alaska will wait for a moment.

I agree with the Senator's characterization. I also appreciate how she told me that she was uncomfortable, she told us how she was uncomfortable having this guaranteed health insurance even more so since her spouse also has health insurance.

Madam President, that is one of the facts of life at this very moment that all of us should ponder. Those spouses of employees in Pennsylvania who just lost their jobs this week, they are going into the job centers that I used to run, the unemployment offices, they are going into those offices and I know what will happen if I visit them in those offices. I have been doing it the last 6, 7 years.

I ask people in the front row of the unemployment office waiting to apply for unemployment compensation, "Do you have health insurance?" And usually 7 or 8 out of 10 say "No." And they are scared. The other two or three have spouses working somewhere else where their employer contributes to their health insurance. And that is the roll of the dice—7 or 8 out of 10 when they lose their job lose their health insurance.

I think, as we move forward in this debate, we should remember that every day as we talk, more Americans fall into that gap, into that hole.

I see my frequent TV debating partner, Senator GRAMM, is on the floor, and I know he now or soon in these days will tell us more about the horrors of Government-run medicine. But he looks well to me. He is fine on the stump, in our debates, without any noticeable ill effects of his Government-provided plan with Blue Cross/Blue Shield through the Federal Employees Health Benefits Plan.

Mr. STEVENS. Will the Senator yield?

Mr. WOFFORD. The Senator from Alaska.

Mr. STEVENS. Madam President, I hear the Senator say quite often that Members of Congress have something different from other people. I am sure he is aware of the massive plans that are out there for employees living in Pennsylvania, for instance, of United States Steel, the major industries. Their plans are much better than that for the Federal employees. As a matter of fact, they are much better than that for Members of Congress.

I wonder if the Senator knows that Members of Congress pay an additional premium for their health insurance. Right down here at the Capitol Physician's Office, we pay an additional premium of almost $1,000, I think it is between $600 and $1,000—it depends on how it is established each year—in addition to the premiums we pay for Federal Employees Health Benefits. We pay more than any other Federal employee. Does the Senator know that? We pay more than any other Federal employee for health insurance coverage. Does the Senator know that?

Mr. WOFFORD. Does the Senator from Alaska recall that before this Senator came into this body, the Senators and Members of Congress got that service from the attending physician free? I put a motion before this body to see that we paid the fair market price of that extra service, and action was taken on that after I had about 30 cosponsors of my amendment.

So I do, indeed, recall that, one, Congress for decades had that additional free health care; and, second, that now Congress pays that extra fee. But I am talking about now——

Mr. STEVENS. Madam President, I wonder if the Senator will yield again. Even before the Senator's initiative, the health insurance coverage that we had as Government employees paid a portion of the cost at the Capitol Physician's Office, at Walter Reed, and at Bethesda. Those were not free. They were paid for as employees of the Federal Government.

The Senator is correct that we now pay an additional amount for the special emergency services down here. But if the Senator goes down and has a blood test, if he goes down and has an x ray, those are repaid by the health insurance and have been for many years.

I keep hearing the Senator say that somehow or other, Members of Congress are different from other people in this country. We have a plan that is quite similar to the larger employers' plans. It is less beneficial than the employees of United States Steel, the big union companies of the automobile industry; the massive plans of this country are not as beneficial to the employees of the Federal Government as this plan is, and Members of Congress are treated no differently from any other employee in the Federal Government.

Why does the Senator from Pennsylvania mix that with Members of Congress? Why does the Senator not put up the benefits of all Federal employees?

Mr. WOFFORD. If the Senator will yield——

Mr. KENNEDY. Regular order.

Mr. STEVENS. Postal employees go beyond that, far beyond that.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. WOFFORD. The Senator is, in my humble opinion, taking my points both too personally and falsely. I am in no way saying that the Federal Employees Benefits Health Plan is a bad plan. I am in no way saying it is the best plan. The State employees plan in Pennsylvania, of which I once was part, is somewhat better than the Federal employees plan.

That is not my point at all. I am very pleased that there are 9 million Americans, Federal employees and their families, who have these benefits, who have a guaranteed private health insurance choice that cannot be taken away, with their employer contributing approximately three-fourths.

The point is, let us do it for the American people. And my point to the Senator is, if he supports this kind of plan, then make it available to the American people. And if the Senator opposes making this available to the American people, making this a model of what the American people can have, then live under the system he supports, which is not making it available to the American people. Do not ask our taxpayers, our employer, to pay for our health insurance unless we establish this principle for the American people.

Mr. STEVENS. Madam President, I hope that the Senator was listening to me this morning. I tried to point out in conversation with the Senator from Massachusetts that the system we have is a model system. There is no question about that. I am sure the public knows that this is a model system. It is a plan that ought to be followed for other people in the country. We ought to find a way to extend it.

I invite the Senator's attention to the Heritage Foundation proposal of 2 years ago. It would have done just that. I do not see any Member on the other side of the aisle endorsing the Heritage Foundation plan. Instead, they are trying to tell the American people to come join this plan that we have for Federal employees. But Senators do not take the time to tell the American people that by 2005, you will destroy that plan. You have enlarged it out to the point where it is no longer a plan. But you have offered the Federal employees supplemental benefits beyond this plan after 2005.

There is a promise in the Mitchell bill to negotiate supplemental benefits. Why do you not tell the American people that as soon as they join this plan, you are going to give Federal employees supplemental benefits beyond the plan? That is what the Mitchell bill says. It is duplicitous for us to try to present to the American people the health benefits of Congress, what Congress gets. Congress does not get any benefits. We get benefits as Federal employees. There is no congressional plan. There is no congressional plan.

Mr. WOFFORD addressed the Chair.

Mr. STEVENS. I belong to the Treasury Department plan.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. WOFFORD. Madam President, me thinks the Senator protests too much.

Mr. STEVENS. Not if he answers the questions, I will not.

Mr. WOFFORD. I—and more importantly, the majority leader, in his bill—am not saying this is the cure-all that every American will be part of. We do open it to a lot of Americans as a choice. But the main choice that is new, in my opinion, is the voluntary purchasing cooperative, not the mandatory alliance but the purchasing groups that on smaller scales in communities will be one of the choices people will have through which they can get private health insurance at reasonable rates the way we have arranged for ourselves.

Mrs. BOXER. Will the Senator yield? Madam President, will the Senator yield to me?

The PRESIDING OFFICER. Will the Senator from Pennsylvania yield?

Mr. WOFFORD. I yield to the Senator from California.

Mrs. BOXER. I thank the Senator for yielding to me. I want to really thank the Senator. We have hit a sore spot today—I think that is good—because what it really comes down to is a very simple point.

People get up here on the floor, and they talk about sunshine and opening up the commissions. I am with you on that. I am for sunshine. But what I am really for in addition to the sunshine, what is to the main point, is that the American people have a chance to have what every single Member of Congress has—health care that can never be taken away; a nice package, so nice, that not one Republican who opposes giving that to the people of America has ever given it up, according to the Senator from Pennsylvania and according to the Senator from Arkansas.

My question to the Senator is this, and my last question to the Senator, so that this debate will be understood. That question to the Senator is this: Is it not so that under the Mitchell plan we are amending and debating, the Federal Employees Health Benefits Program will be opened up on a voluntary basis to all Americans who at this time have no access to such a good plan? Am I correct on that?

Mr. WOFFORD. The Senator is correct.

Madam President, I know that Senator MACK from the Sunshine State of Florida has been wanting to talk about his amendment for some time, or Senator GRAMM, whoever it may be. But I appreciate Senator MACK a little earlier saying he is agreeable to my going forward on this.

I just want to say a last word about sunshine; for the moment, just a last word. When I think of sunshine, I think of something that is warm, and constructive, that is trying to make things grow. It is not just harsh light. It is the warmth that you get from the sun. I realize there is a certain heat, a sore point that the Senator from California said we were touching that produced the heat from the Senator from Alaska.

But what I recommend, I beg of ourselves, is that we recall the first great Republican, Abraham Lincoln, who asked us and who did everything in his power to show how you tap the better angels of our nature.

As we talk about sunshine, let us somehow recognize that the spirit of destruction of saying no, the negative case is, of course, the easy case. The hard thing to do is to build and to come together, and reach beyond party lines. We have a historic chance to do that in these next days. Let us raise our sights to that standard.

Mr. PACKWOOD. Madam President, I listened to the debates on amendments and how the amendments changed the bill all the time, and that when we offer amendments there are mistakes. I am reminded of little kids with a dead body where the kids kept changing the clothes, but the body was still dead. The Clinton-Mitchell bill is that body. It is dead. We can change the clothes on it all we want. It is still dead.

I yield 10 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank our colleague from Oregon.

I want to remind my colleagues, especially those on the Democratic side of the aisle, that we do not have health insurance that is always there. After the votes are counted in November and many of your colleagues are back in their State working for a living, they could lose their Government health insurance. They do not automatically get to take it with them.

Let me also say I am going to take my Democratic colleagues seriously on this issue when they offer an amendment stripping away these insurance benefits. When they offer an amendment taking these benefits away from Government employees, including Members of Congress, I am going to view this tactic as something other than a PR stunt that was discovered after spending $2 million on focus groups. The pollsters posed the question, when the American people disagree with us on the total substance of the President's health care proposal, what can we say that they would agree with? That is where this element of the debate came from.

I am not going to spend my 10 minutes trying to convince the American

people that everything they just heard about choice is not true. The American people already know it is not true. One of the wonderful things about the health care debate is that the President and our dear Democratic colleagues have grossly underestimated the ability of the American people to understand.

Let me just say in simple English in about a minute why everything that I have heard about these great choices and about this so-called freedom of choice is simply not true.

The Mitchell bill by law tells you what your health insurance has to cover. If you are a widow in Arkansas, 64 years of age, you are going to have to pay for prenatal care and for immunization benefits for children who you do not have. If you do not drink, and if you are a teetotaler and you had never touched drugs, nonetheless you are going to have to pay for alcohol and drug rehabilitation services that will drive up your premium by 12 percent, and you are going to have to do that because the Government is going to make you have it.

But on the other hand, if you now have a particular benefit that you like, say a pharmaceutical benefit, or perhaps coverage for orthodontist services in your policy that you and your employees picked because you wanted it for your families, there could be as much as a 66-percent tax placed by the Mitchell bill on that benefit.

The Mitchell bill's proponents will say, "Well, you can keep it. You just have to pay the 66-percent tax." Well, other than my family and my dog, I do not have an asset that is valuable enough to me that I could afford to pay a 66-percent tax to keep. On either my family or my dog, I would pay that tax to keep them. But I would not do it for my truck. And most Americans would not be able to afford it.

If that is freedom of choice, you have it under their plan. There is only one problem that our colleagues on the left hand side of the aisle have, and that is that the American people have broken this code. Where are we in this debate? Basically where we are is that the Mitchell bill is deader than Elvis. If we had a vote on the Mitchell bill today, it probably would not get 35 votes.

The House is getting ready to adjourn on Saturday, and they are not coming back until after Labor Day. The question is what should we do?

I want to make a proposal. First of all, I want to let my colleagues know something that I assume most of them already know. But I would suggest they go back to their office and check on it.

First, we all get a lot of mail. Senator KENNEDY and I go back and forth as to who gets the most mail in the Senate from one month to another. Maybe all the right-thinking people write me and the wrong-thinking people write him. I do not know what kind of message he is getting. But we get a lot of mail. Yesterday, I got over 3,500 letters, and that is a new record for me.

Yesterday, 1,005 people called my office in calls that were completed, and they said to me, "Kill the Mitchell-Clinton bill." Most of them said it in a more emphatic way, the way we talk in Texas. But I am not going to say that here. And 133 said pass the Mitchell bill.

I also got calls about this so-called crime bill that will let 10,000 drug felons out of jail early. Seven-hundred and sixty-two people said do not pass that bill, and 68 people said pass it.

The House is getting ready to go home, and here is what the chairman of the Health Subcommittee of the Ways and Means Committee in the House said about that. He said, "I have said repeatedly the one thing leadership does not have to give away is time," said Representative PETE STARK of California, chairman of the Ways and Means Subcommittee on Health. "Members go home for 2 weeks. It gives people a lot of time to complain," he said.

Obviously, there are a lot of people around here who are scared to death that, if they go back home to the source of political power in America, if they listen to the people who do the work, pay the taxes, and pull the wagon in the country, that this health bill is dead.

I submit that come Saturday when the House leaves, it is only a matter of a day or two until we too are going to go back home.

When we go back home, all these people who are calling your offices are going to be able to tell you how they feel. I believe that it is time to go back and listen to the voice of America. We have a so-called mainstream group of Democrats and Republicans who have been working on a health care reform plan. I do not know the details of their plan. But I know two things about it that tell me that when they are talking about mainstream, they are talking about mainstream Washington. They are not talking about mainstream America.

Their first idea is to have the Government tell us what kind of insurance we have to have and what it has to include. Their second idea is to impose a 25-percent tax on those who dare to buy insurance that is beyond what the Government says they ought to have.

I submit that this so-called mainstream group is out of touch with mainstream America. We can fix that by having Congress admit that the Mitchell-Clinton bill is dead. We can do it by stopping carrying around this corpse, changing its clothes, putting more powder on its face, and, instead, admit that the American people have rejected this bill.

Let us go back home, listen to the people, come back in September and see if we can sit down and write a bill that has broad, bipartisan support.

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

Mr. GRAMM. I have only 10 minutes, and I have listened for hours as my colleagues have gone on.

Let me tell you why I believe the Mitchell bill is dead. Listen to these numbers and see if this does not stun you—even for Washington, DC.

The purpose of the Clinton health care plan was to do something about the fact that 14.1 percent of the GNP of the United States is spent on health care. The President, the First Lady, everybody at the White House, and most Democratic Members of Congress have said: My goodness, this has to be stopped, it is killing the country, bankrupting the Nation.

So CBO looks at the Mitchell-Clinton bill and what does CBO say? They say, sure enough, you have done something. Within 10 years, under your bill, we will not be spending 14.1 percent of GNP on health care; we will be spending 21 percent of GNP on health care. Is that a solution? Is that solving the problem?

Listen to this as an example of Government work. There is a great problem in that 37.3 million people last year, on at least one day, did not have private health insurance. About 75 percent of those people changed jobs. So if we made insurance portable, we would solve a big problem. How does the Clinton-Mitchell bill fix this problem? To try to help 37.3 million people get insurance, the Clinton-Mitchell bill provides subsidies to 100.3 million people to try to help the 37.3 million people who do not have insurance. Their bill provides subsidies to over 100 million people. But guess what? The subsidies are so poorly targeted, that they still leave 13.3 million people uninsured. So you begin with a problem of 37 million people without insurance. You subsidize 100 million people, and yet you do not solve the problem of 13.3 million. Does this bill deserve to be saved? Should we not put this bill out of its misery and let it die a quiet death, in dignity and privacy?

Mr. PRYOR. Will the Senator yield? I would like to yield the distinguished Senator 3 additional minutes so that he might have the opportunity to answer some questions from our side.

Mr. GRAMM. If I may have the 3½ minutes, I would be happy to yield.

Mr. PRYOR. I will yield if you will answer some questions.

Mr. GRAMM. I will certainly yield for a question.

Mr. PRYOR. I yield 3 minutes more to the Senator.

Mr. DASCHLE. I thank the Senator. The Senator said it is imperative that this body support the will of the people. A poll came out this morning that indicated 77 percent of the American people support an assault weapons ban.

I would ask the Senator from Texas whether he supports an assault weapons ban using the criteria he laid out, the criteria by which he maintained we should determine our support for legislation.

Mr. GRAMM. I am looking for the same poll. Let me say that when you ask the American people if they would rather have the anticrime alternative I offered, which was 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony, 20 years for discharging it, life imprisonment for killing somebody, and the death penalty in aggravated cases, by a substantial margin the American people prefer that option over gun control.

Mr. DASCHLE. The Senator did not answer the question. The question was: Do you support what 77 percent of the people said in this morning's poll that they support? Is the Senator prepared to vote according to the will of the people?

Mr. GRAMM. If I can reclaim my time, I control the floor.

Mr. DASCHLE. It is my time.

Mr. GRAMM. If I might reclaim my time, my response is that I offered an alternative that is more strongly supported by the American people, that is a better, more effective alternative. I do not believe gun control works.

If you do not give the American people criminal control, out of frustration they say, "Let us blame guns." But if you are willing to grab violent criminals by the throat and not let them go, to get a better grip, something I am eager and willing to do, then the American people respond very strongly to it.

I would have to say, Madam President, that the American people get very frustrated when they are told they have a tough crime bill, and it turns out that it has $8 billion of unadulterated pork in it, and it has a provision that overturns mandatory minimum sentencing, so that possibly 10,000 drug felons, who are in prison today for drug trafficking, will end up being let out of prison by this bill.

So my response is that there is a better alternative that is more strongly supported by the American people. I say to my colleague, also, that if he will look at the poll this morning in the newspaper U.S.A. Today—and I hope they will note I mentioned their name—they will see the American people do not support this bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. I yield Senator LEVIN 5 minutes.

Mr. LEVIN. Madam President, I think we have hit a sensitive nerve this afternoon on this Federal employees insurance. I noticed that sensitive nerve ending both by the response of the Senator from Alaska and the nonresponse from the Senator from Texas.

It is not just us, it is 9 million Federal employees and their families who have this insurance. If it is good enough for us, why is it not good enough for the rest of the people of America? Is it the best plan in America? No, there are some better. Yes, there are some companies that offer even better plans than this. That is not the issue.

We voted this for ourselves and 9 million Federal employees. The American people are entitled to an answer. If we voted it in for ourselves and the 9 million Federal employees and their families, why will we not provide them the same protection? That is the question they are asking.

There can be a lot of give and take as to what is good and what is bad. But one thing is real clear, and that is this green booklet. This is available to every American. Ask your Member of Congress for a copy. Call up the office of your Member of Congress and say, "I would like to take a look at that plan that you folks have provided for Federal employees and yourselves." It is a green book, called Supplement 890–1. In that book, on page 4, it says that we are guaranteed "protection that can't be canceled by the plan." Listen to this one.

Mr. DASCHLE. If the Senator will yield. You mentioned a point raised by the Senator from Texas about what happens when a Senator retires or is defeated in an election. I believe the Senator misspoke.

The fact of the matter is that if you serve in the body for 5 years and are eligible for Federal retirement benefits, you are entitled to maintain your FEHBP coverage. That coverage can never be taken away. Does that not make it similar to what the majority leader is proposing in his bill?

Mr. LEVIN. It is not only true for current Federal employees; it also provides it for former Members of Congress, which is the point of my friend. This is obviously now a very sensitive question with the opponents of health care. They are not about to answer this question. Why, if we provide it to 9 million Federal employees, including ourselves, should we not take the steps within our power to make it available to the people who pay our salary, the taxpayers of this country, the ones who pay three-quarters of our premium?

There is another provision in here, too. This is page 4. This green book is available to everybody. Go into your Member of Congress' office. Give him a call. Ask him to read the booklet. Page 4:

> Coverage without restrictions because of age, current health or preexisting medical condition. No Federal employee can be denied health care because of a preexisting medical condition.

It is right here in the book. If we hire someone on our staff back in our home State or here in Washington, that person could have diabetes, could have a heart condition, could have skin cancer. That person is entitled to health coverage.

Some of us are trying to provide that kind of assurance to every American. Hey, we provide it to ourselves and 9 million Federal employees and their families. Why is it not good enough for every American family? The answer is it is. They are paying our salaries. They are paying three-quarters of our health care. They ought to have the same opportunity as every Federal employee has.

Mrs. BOXER. Madam President, will the Senator yield for a question?

Mr. LEVIN. I am happy to yield for a question.

Mrs. BOXER. I thank the Senator.

I want to just underscore the point that was made by the Senator from South Dakota. The distinguished Senator from Texas, who has been a real critic of the Mitchell bill, said it was as dead as Elvis, although you never know with Elvis. Elvis does pop up now and then. To make that kind of remark about a bill that we are amending on the floor, and then to make a misstatement that if the voters knock us out of here we do not have insurance, let me say to make sure that——

The PRESIDING OFFICER. The time yielded to the Senator from Michigan has expired.

Mrs. BOXER. Madam President, I ask unanimous consent that the Senator be given an additional 2 minutes.

Mr. PACKWOOD. On whose time?

The PRESIDING OFFICER. Does the Senator from Arkansas yield?

Mr. PRYOR. If the Senator from Oregon will allow this, we yield 2 additional minutes from this time.

Mr. PACKWOOD. That is fine.

Mrs. BOXER. I thank the Senator from Oregon for his generosity.

I say to the Senator from Michigan we had a Senator on the other side who has been a leading critic of the Mitchell bill. He declared it dead and he said on the floor of this Senate that if the voters kick us out we lose our health insurance.

The Senator from Texas, who made that statement, has been around a long time in Congress. As a matter of fact, I remember when he used to be a Democrat, and I served over on the House side.

He has his health insurance. If the voters were to knock him out or knock me out—they have that chance—the truth is we would have health insurance that could not be taken away because we have been here in excess of 5 years.

So I say to my friend from Michigan, just by way of underscoring his point, if it is good enough for us, should it not be good enough for Mr. and Mrs. America.

Mr. LEVIN. I thank my friend from California.

Mr. KENNEDY. Madam President, will the Senator yield for one final question?

Mr. LEVIN. Could I quickly respond to that question, first?

The PRESIDING OFFICER. The Senator has 50 seconds.

Mr. LEVIN. I have 50 seconds to respond.

The quick answer to that question is all Americans should have the same opportunity that we do for health care. That is what some of us are trying to achieve. It is not right that we have access to health care which is not available to all Americans, that we can obtain health insurance despite any preexisting condition, but other Americans do not have that opportunity.

I would be happy to yield to my friend from Massachusetts.

Mr. KENNEDY. Just a final question, and I ask the Senator from South Dakota the same question.

Does he know of any job in America where after you have worked for that period of time, up to 5 years, and then you retire that you are guaranteed health insurance for the rest of your life effectively? Do you not think that ought to be of interest to some Americans as well?

The PRESIDING OFFICER. The time has expired.

Mr. KENNEDY. Could I have a minute to let him respond?

Mr. PRYOR. I yield one additional minute to the Senator.

Mr. DASCHLE. Madam President, the answer to the question from the Senator from Massachusetts is "no." In fact, it is often just the reverse. I know so many occasions where people lose their health benefits when they are laid off or retire from their factory or their office job. They are no longer insured. They have limited access to care. They have no confidence that their insurance will be continued. It does not matter whether they are sick, whether they are healthy, whether they are rich or poor. They may lose their coverage.

It is really ironic, Madam President, that this body on so many occasions exempts itself from laws that we insist the rest of America comply with, but on health care it is just the reverse. We are prepared to accept benefits that we are not willing to share with the rest of the country. That ironic twist is something we do not talk enough about.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon.

Mr. PACKWOOD. Madam President, I yield such time as the Senator from Florida requires.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Madam President, I can understand why the discussion is not on the issue of my amendment. Frankly, I would suggest that this is probably somewhat embarrassing to those who have endorsed the Clinton-Mitchell proposal. There might be those who feel that the discussion of meetings in secrecy somehow might be a silly idea. But I believe there is something very significant about a health care proposal which we claim is basically Government dominated, and Government controlled. We think the point that a couple of the major commissions that have been established under this bill will be able to carry out their work in secrecy is wrong.

There may be those who want to say they did not know this was in the bill. Or they might say I certainly would not have supported that concept if I knew it was in there.

But the reality is these boards, and two I am going to specifically talk about are exempt from having their meetings held in public. One of the demands we place on Government because of the freedoms we enjoy is the right to participate in actions taken by the Government which affect our daily lives. Our constituents can write us. They can call our offices, they can meet with us. They can attend hearings. They can read proceedings of the Senate in the CONGRESSIONAL RECORD. They are watching us in this historic Chamber today.

But when it comes to health care, these freedoms are slowly being eroded by the Clinton-Mitchell legislation. This bill expressly grants secrecy to boards and commissions which will be making life or death decisions affecting ourselves and our families.

The amendment we offer today restores some of the freedoms which have been taken away from the American people in the Clinton-Mitchell bill.

Our amendment requires that all boards and commissions established under this bill must operate in the sunshine. It is not surprising, however, that secrecy has made its way into this bill. It began in secrecy at the White House with minutes and notes of meetings pried out only through court action.

This bill has also been crafted in secrecy. Secrecy in Government is not the American way. Secrecy in Government has led to all sorts of abuses and denial of freedom in other lands. We must keep our system of Government open and accountable to the citizens of our country for public inspection and scrutiny.

It is simply wrong that this legislation has in it so many elements of secrecy.

The Clinton-Mitchell bill states that the Federal Advisory Committee Act shall not apply to the national health benefits board, the national health care cost and coverage commission, and the agency for health care policy and research. In addition, panels created by the agency for health care policy and research are exempted from the Government in the Sunshine Act.

Let me try to put this into some perspective. This chart shows the requirements under the Federal Advisory Committee Act. It says that these meetings should be meetings in public, published notice of meetings in the Federal Register, let public know of the agenda for those meetings. The act requires boards to permit persons to obtain transcripts, appear and testify or file statements, make a record, minutes, working papers, drafts, et cetera, available, keep detailed minutes, permit citizens to purchase manuscripts and transcripts, keep adequate financial records. The act also requires there should be a 2-year time period for the boards and commissions.

That is the requirement for most Federal agency meetings. But for one reason or another, these two boards, the national health benefits board and the national health care cost and coverage commission, are exempted from those requirements.

I want people to think about that for a moment because these two boards have a potentially significant impact on the lives of our friends, families and loved ones.

The national health benefits board will meet at least four times per year. It define benefits. It will develop cost sharing schedules, address parity of mental illness and substance abuse service, decide what is medically appropriate and necessary, promulgate regulations or guidelines to clarify items and services covered, and submit to Congress an implementing bill with fast-track authority.

Keep in mind that it is going to go on behind closed doors in secrecy, with no way for the public to have input on probably what is the most significant piece of this legislation, the determination of the benefits that will be in policies.

Let me once again put this on a personal basis.

Several years ago, my wife Priscilla told me she had discovered a lump in her breast. It was cancer. But, fortunately for her, it was discovered early. She is alive today, frankly, because of that early discovery.

This benefit board is going to make the determination as to whether women are going to receive mammograms at the age of 50 and above, or whether it will be 40 and above.

Mr. President, I have been active on this issue with respect to breast cancer. I have attended meetings where there were discussions as to whether the scientific data really does question whether it should be 50 or whether it should be 40. And there is one tremendous debate that is going on.

But the thought occurs to me that allowing this board, behind closed doors and without input, is, in fact, a tragedy. It is an outrage.

Now, my friends on the other side of the aisle do not want to focus on this, and I can understand why. But this is a significant issue. The key term is

"medically appropriate and necessary." How that board comes to a conclusion on almost every single medical procedure available to us in this country will affect each one of us personally, our moms and dads, our brothers and sisters, our grandchildren. And it is going to be done behind closed doors?

Let me make another point. This same board, under "medically appropriate and necessary," will promulgate regulations and/or guidelines to clarify items and services covered.

A couple of days ago, I talked about a British citizen that had gone to a generalist and was referred to a specialist in England, and received a letter from the governing board indicating to him that it would be 2 years before he would be able to get an appointment with that specialist. My point is, in that same country, under these kinds of terms and with a similar board, they have decided—at least it used to be—they have decided if you are 55 years of age or older, kidney dialysis is not available to you.

I do not think those kinds of decisions should be made by a seven-member board behind closed doors. I think it is fundamentally wrong. I think people want to have confidence in their Government, confidence in their health care system. They want to have the ability to have input. It is that straightforward and that simple.

Now, let me address this other commission, the National Health Care Cost and Coverage Commission. I know some people might say, "Well, gee, I do not know, that is really one that is too important to focus on. After all, is the National Health Benefits Board not the key concern?"

It is the key concern. There is no question about that.

But I think it is important, as well. Because there are several things that this coverage commission is empowered to do. "Determine if our Nation and each State has achieved 95 percent coverage." And then, "Develop legislation to achieve 95 percent coverage."

That legislation comes to us under fast track, and we lose our ability to effect that legislation. I do not think that a board of this kind, dealing with that kind of significant legislation, should do it behind closed doors.

Mr. President, I suggest that when this does come to a vote, I imagine that most of my colleagues will agree with me. And I am happy that they will, because a health care plan, whatever kind of health care plan makes it through the Senate, the House, and eventually becomes law, should not have as one of its basic tenets, secrecy. The people of America demand that they have a right to express their concerns. They want to be able to say more specifically what kind of health care coverage and what kind of medical procedures may be available to them.

I was driven to offer this amendment because of personal reasons.

I go back to the point I made a minute ago. I think it is important that the people of our country have confidence, not only in the process, but in the people who make these kinds of delicate decisions. And I suspect that every Member of the Senate and most people who are hearing this debate have found themselves in positions where they have had to make some very difficult and tough decisions about the kind of health care for their loved ones to receive.

Those decisions are being taken away from them. Those decisions are going to be made by these kinds of boards. These boards are going to determine what is "medically appropriate and necessary."

No longer will that precious relationship that exists between the doctor and patient be the same if legislation like this is passed. Boards, acting behind closed doors, in the darkness of night, will decide what benefits you and your family will receive.

Again, it is much more than just benefits. What we are talking about is specific medical procedures. They are going to decide what drug, for example, might be available. They are going to decide what kind of operating procedure might be available. And, under this legislation, you and I, as average Americans, will not have one opportunity to input the outcome of that decision.

That is wrong and I think the American people reject it out of hand.

I yield the floor.

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

Mr. PRYOR. Mr. President, I yield such time as the Senator from South Dakota may desire.

Mr. DASCHLE. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I had the opportunity to clarify the statement made by the Senator from Texas a couple of minutes ago with regard to what happens when a Member of the Senate exits the Senate. The answer is that a Senator is entitled to the same benefits beyond the time he or she may serve in the Senate, for 18 months, and then he or she may convert their group policy to an individual policy, through the same insurance company. This is an important point.

Can we be consistent? Can we say, if it is good enough for us, it ought to be good enough for them? The question is not whether we have a government program or a private program. We can argue about the merits of either, and no one has done that more eloquently, as the Senator from Arkansas has stated, than Senator MITCHELL. The majority leader has said over and over again, we can call this a horse if we want to, and we can continue to refer to it as a horse, but it is a desk, regardless of how many times we say it is a horse. We can call the health system under Senator MITCHELL's bill a government program, but the bottom line is what we are trying to do for the American people is what we have already done for ourselves. We are simply trying to extend the Federal employees health benefits plan, a plan that 9 million Americans use as employees of the Federal Government, to all Americans. Is that a government plan or is it a private plan?

We have made reference several times today to a speech made by the majority leader. I had the good fortune to hear another speech Monday evening, August 15, given by one of the real students of health care in the Senate, our colleague from Minnesota, Senator DURENBERGER. I doubt that he would mind if I read what he said that night:

> If we cannot understand the difference between the Federal Employee Health Benefit Plan and a Government-run program like Medicare and Medicaid, I, for one, am going to spend a lot of time here educating my colleagues, and I do not want to have anyone call it a filibuster. The Federal Employee Health Benefit Plan or plans, if you will, are a series of health plans which all of us have the opportunity to buy. But they are all private plans everybody in this community can buy, if they have an employer who provides it to them, or they can buy it in the open market. There are Blue Cross-Blue Shield plans in that, and I think there is a Kaiser plan in this community. But they are private plans.
>
> What they do is ensure all of us access to the doctors, hospitals and so forth that we need in this area, Washington, DC, northern Virginia, Maryland, and so forth. But it is basically a private plan.

That is what our colleague from Minnesota said about what we have as Members of the Senate. It has been described on so many occasions as a government plan, but as he, the majority leader and so many others have so ably stated again this afternoon, what we want to do is simply provide the American people with the opportunity to have what we have; to give them the same access we have; to give them the confidence we have that when you lose your job or when you retire, you have the ability to cover yourself and your family. We have the confidence in knowing that if we get sick, we are still going to have the same coverage we have right now.

I do not know that we can do any better than that. We have the luxury of knowing that we have a standardized plan that precludes preexisting condition exclusions or limitations, that precludes the fine print, that precludes a lot of the surprises that one finds in so many of the plans most Americans have today. We have an ability to go about our work, to do the best job we can as U.S. Senators, knowing we are well covered. There are no surprises in

our policies. When we most rely upon the FEHB, we know it is there for us.

I hope we can recognize that there is a substantial degree of misinformation in this debate. It is crucial that we recognize the importance of portability, the elimination of preexisting condition exclusions and fine print, and the extension of benefits regardless of one's employment status—that is all we are saying we want. We can categorize that as a government plan if we want to, but that does not change the facts. The fact is, very simply, that Members of Congress have a good system. If it is good enough for us, it ought to be good enough for all Americans.

I do not know how many speeches I have heard on the floor over the last many years about why it is we ought to exempt ourselves from this or that law. Some of us are now arguing just the reverse. We have something many Americans do not have, and the question is, should we extend what we have to them? I believe that really is the essence of this debate.

Mr. WELLSTONE. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator from Minnesota.

Mr. WELLSTONE. I will ask the Senator a question. I followed the debate from my office. This point came up some yesterday. I know we are going to come back to this in the debate.

In the Federal employees benefit package there are a variety of different, if you will, benefit packages but in each and every one of them, you have a list of what is covered. In other words, you have a standard basic benefit package, and there are a number of them that you choose from.

But would the Senator agree with me that the differences have to do with copays or deductibles, but it is not a situation where people can say, "Listen, I am not a woman expecting a child." We went through this with the amendment of the Senator from Connecticut, Senator DODD. Or, "I am not a spouse or woman expecting a child or I do not struggle with mental illness or I do not know anybody who does; I do not come from an underserved community, I am not interested in public health."—and therefore you can say, "I want nothing to do with that."

Is it not true that in each one of these plans you have a standard package, the idea being we are all in this together? Is that not a part of what makes this insurance work?

Mr. DASCHLE. The Senator is absolutely right. He was a participant in the debate yesterday when we discussed that issue. What we do not want to do is protect the fine print. What we do not want to do is allow practices utilized by some insurance companies, in which they surprise policyholders at the moment when they are most vulnerable. We do not have to worry about that as Federal employees. One ought not to have to worry about that under any circumstances in this country. But people do worry. There are so many tricks, there are so many gimmicks, there are so many ways insurance companies are able to get around their responsibilities even if someone has paid tens of thousands of dollars over the years to ensure protection for themselves and their families. They may not know their policy has a lifetime limit. They may not know their policy has a preexisting condition clause. They may not know their policy has many different categories of exceptions that sometimes get buried in the fine print on page 77 of their insurance plan.

That is really what we are trying to address here. We are trying to standardize plans to keep the surprises out of insurance. We have that security. All Americans ought to have that same confidence. I appreciate the point the Senator from Minnesota made.

Mr. WELLSTONE. If the Senator will yield? Let me just ask a couple of other questions because this will go to an amendment I will introduce on the floor soon.

Is it not true—we have had this debate about universal coverage—each Senator or Representative is covered and in a sense it is universal coverage? We do not have 90 or 95 percent; all of us are covered?

Mr. DASCHLE. All of us are covered, all our families are covered, everyone who serves in the U.S. Senate is completely covered.

Mr. WELLSTONE. Then, finally, is it not also true that there are no preexisting condition?

Mr. DASCHLE. The Senator is correct. There are no "preexisting condition exclusions or restrictions allowed." In fact, these kinds of exclusions are specifically prohibited under FEHBP.

Every insurance plan that contracts with the FEHBP has to meet certain conditions. It has to be willing to accept certain criteria if it is sold through FEHBP. That is exactly what we are trying do here. We are trying to require insurers to say, "We are not going to have preexisting condition exclusions, we are not going to have lifetime limits, we are not going to write into a plan the kind of fine print that is so often found in non-FEHBP private plans. FEHB plans are willing to accept this criteria. Why? Because FEHBP has access to 9 million well-paid American people and their families. That is why these plans are willing to agree to go into that pool. That is why the plans are willing to leave out preexisting condition restrictions and the fine print they put in other policies.

Mr. WELLSTONE. Because everybody is in this together.

Mr. DASCHLE. Everybody is in this together. The universal coverage we get gives us the ability not only to have the confidence that we are not going to be surprised by what is in our policy, but it gives us the power to purchase. It gives us the ability to choose among plans that compete along with all the other plans for 9 million Americans. Through this system we get the cheapest, most accessible health care you can find in America today.

Mr. WELLSTONE. I see my colleague on the floor. If I may make just the final point, if the Senator will let me ask a question and make a comment. The other thing that makes this work is that our employer contributes what, about 72 percent? Is that correct?

Mr. DASCHLE. Our employer contributes 72 percent today, we contribute 28 percent. Which is approximately the average in the country today. Employers in large corporations generally provide that kind of contribution to their workers' coverage. The Senator from Alaska was a little sensitive about that earlier, when he was trying to make the point we do not have anything unique. To a certain extent he is right, but there are truly unique aspects about what we have.

The luxury of knowing that we cannot be dropped from our policy, the luxury of knowing that we have a significant purchasing power that gives us a good price for our policy. So we have some benefits that a lot of people do not have today.

Mr. WELLSTONE. To conclude, let me ask the Senator's reaction to this. The point we are trying to make, which seems to be maybe the standard, almost 100 percent of the people in the country—is, "Look, when you do your work representing us, we would like for you in your reform bill to make sure what is available to you and your loved ones"—and they do not say that in the spirit of angry people—"is a available to us." That is really the goal.

Would the Senator think it would be a good idea, since this is the yardstick by which we measure our work, for an amendment to be offered? I am going to work out an amendment that essentially captures the spirit of that—what it is that you have and what you consider to be a plan that is good for you and your loved ones. This is what we want in the reform effort, this is what we want the final bill to live up to, to move toward, to capture.

Mr. DASCHLE. I commend the Senator for his interest in this issue. I think that sends the right message. We want for you what we have for ourselves. We want to be sure that you have the same opportunities, the same confidence, the same stability that this provides all of our families and ourselves. As we go about our daily business, as we try to do the best job we can here in the U.S. Senate, we do not have to worry. We are protected. Why? Because we, over the years, decided it is in our best interest to have this kind of insurance. We have had the luxury to do that. A lot of Americans do not have that luxury or that power.

Mr. WELLSTONE. I thank the Senator. I think what I will do, I am going to, the first chance I get, offer an amendment where we can have a vote and have everybody on record to this proposition that really, in this final reform bill and what we are working for, what we are working for is to make sure the people we represent have health care like we have: High-quality health care available to themselves and their loved ones. I will make sure we have a vote on the amendment and everybody can be on record, and then we can measure the different proposals in what we finally do by that standard.

Mr. DASCHLE. I hope the Senator from Minnesota will share that with all of us.

Mr. WELLSTONE. I will share that.

Mr. DODD. Will the Senator yield?

Mr. DASCHLE. I will be happy to yield to the Senator.

Mr. DODD. I would like to address two questions to my distinguished colleague. The first picks up on the comment of Senator WELLSTONE. Yesterday, during some of the debate regarding the amendment that we adopted dealing with the accelerated benefits for pregnant women and children in the area of prevention, I heard one of my colleagues express the notion that we are all sort of islands unto ourselves and that there is a need to have so-called cafeteria plans where individuals, based on their family circumstances, their age and the like would tailor their health care plans according to their own specific needs. There is, I think, a genuine appeal to that approach.

But I ask my colleague, whether there is not also a sense of community in this country that also should inform this debate. I see my colleague from Iowa on the floor, and his description of the barn-raising effort is a good example. It was a great notion of community there. It was not possible for one family to put up the barn. We have all heard those stories over the years.

In the educational system, I suppose in an ideal world, maybe each person or family would educate their own child, but we appreciate the value of the community coming together to provide education.

There are certain issues that transcend the individual's needs, and it struck me that in a number of these areas, that is where the sense of community comes into play. A younger generation pays for the Social Security of a retired population. There are some younger people who argue, "Why should I be paying for some retiree?" And yet because there is this notion of community, we have accepted the idea that one generation contributes to the retiring generation's financial security, and it makes sense for all of us.

I just wanted to emphasize that particular point. My colleague from Minnesota has raised it and I think it has value, the notion of community. It does not apply in every situation, but I think in a number of areas it clearly does. I just ask him for his particular comments on that.

Additionally, I think it is important to expand on an issue raised by my colleagues from Michigan, Minnesota, and South Dakota—the idea of a Government plan. No one here that I know of is advocating a Government plan. Now some have argued for a single payer system, and I have great respect for those who do.

But what is before us and what we are discussing is really an expansion of the private insurance industry. I am from Connecticut. No State has a greater interest in this issue. In my State of Connecticut, I have 55,000 constituents that work directly in the private insurance industry. Despite some of the comments that are made around in this Chamber from time to time, we think it is a good industry and has contributed significantly to the health and well-being of this country.

One of the reasons why I am supportive of the general notions put forward by the distinguished majority leader, is because it takes the industry in my State, the private insurance industry, and it builds upon that industry. It does not try to set up a competing operation within the Federal Government or State governments, but it takes the private insurance industry, principally located in my home State of Connecticut, and says we are going to utilize that system and see to it that we can try to reach the other 40 million Americans, who have no insurance. Is that not, in fact, what we are doing?

Mr. DASCHLE. The Senator from Connecticut is absolutely right on both points. Let me talk about the first one for just a minute, because I think he makes a point we do not talk about often enough on the floor: The sense of community. That really has been one of the most pervasive values that I think this country was based upon, all the way through the history, the development of this country. When my State was being discovered by the early pioneers, it was really the pioneers coming together as neighbors, as people in a very desolate part of the country helping each other so that they could survive first and flourish second.

The interesting thing is that sense of community comes up the most when it is a time of peril or personal difficulty, as the Senator from Connecticut has indicated. It is at a time when a barn burns, or it is at a time of a flood, or a time when a community has been ravaged by a disaster of some kind. That is when we really see the value of that community spirit that built this country in the first place.

What greater peril is there than for a family to experience a life crisis in health—a cancer, a serious illness of any kind, a death? That is the time when we really rely upon the community to help each other, to try to get through that difficult time financially and emotionally and in every other way. That is really the essence of insurance. That is really what we are trying to do here.

Frankly, whether it is Government or private, that ought not matter. Let us get out of the semantics for a minute and just recognize that insurance is insurance regardless of what source that insurance may come from.

As the Senator said—and that leads to a second point—we can call this desk a horse, as the majority leader has said, and if it is repeated often enough, somebody soon enough will call this a horse, but the fact is it is a desk.

Someone can continue to insist what we are trying to do is provide Government insurance, but as Senator DURENBERGER said on Monday night, as the majority leader said often, as we continue to insist here, let us get the facts straight. Let us get rid of the misinformation. Let us quit the miscategorization here. Let us get down to the real essence of what it is we are trying to do. We are simply trying to provide the same coverage, the same insurance in that same community spirit to all the American people that we have felt to be so important for ourselves.

Mr. DODD. I thank my colleague for yielding. I see our friend and colleague from Oregon here, Senator PACKWOOD. He was my best and strongest supporter, I point out to my colleagues, on family and medical leave. I recall a day here during that debate when he was eloquent in describing the evolution of the concept of family and medical leave when people worked on farms. And if something happened to a child, there was always someone there. There was a sense of community on those farms.

The world has changed, our Nation has changed and, unfortunately, when a child gets sick or a family member, there is not always someone there to be with them. Arguably, not everybody has a family in this country. Some people are single, some people are retired and family and medical leave is of marginal significance to them.

But when we passed that legislation by almost 70 votes in the Senate—Democrats and Republicans coming together for the final version of that bill—no one made the argument that because it only benefited a certain percentage of the population, that it was not worth doing, because we understood, I believe, the sense of community and the sense that from time to time we need to pull together, and even though someone else may be paying some small amount for that benefit, it is in everyone's interest to make that benefit available.

I thank my colleague for yielding.

Mr. DASCHLE. The Senator from Connecticut makes a very good point.

There are others waiting to speak, and I will conclude with this.

We talk about preexisting conditions and the fine print, Mr. President. I have something here that was offered to us by a representative of the insurance industry recently as an example of the fine print that is so often found in insurance policies today. References in these policies are made frequently to "sickness." Here is what a standard policy includes as its definition of sickness. This is not an FEHBP policy, because we do not have this type of fine print. But you can find this type of language in other plans that are available across the country. And I quote from the insurance policy:

Sickness means illness or disease of any insured which first manifests itself 30 days after the effective date of this policy and while this policy is in force. All sickness due to the same or related cause or causes which continues or recurs shall be considered one and the same sickness or any one sickness unless periods of confinement to a hospital or service treatment or expense incurred resulting from such sickness are separated by an interval of at least 90 consecutive days between the end of one such period and the beginning of a subsequent such period. Any loss which results from hernia, disease, or disorder of the reproductive organs, hemorrhoids, varicose veins, tonsils, or adenoids shall be covered only if such loss occurs after this policy has been in force for a period of 6 months from the effective date of this policy, provided these sicknesses are not excluded by rider or endorsement and these sicknesses are not preexisting conditions.

This is what the American people are up against, Mr. President. It takes not one lawyer but a bank of lawyers to interpret this. If I had this policy today, I would not have the slightest idea whether or not I was covered for my medical condition. That is the surprise method used by some insurance companies to avoid responsibility, to avoid having to own up to the expectations of their policyholders when that moment comes and they need care the most.

So I am hopeful that we can end the surprises; that we can ensure that this piece of legislation does not become the "Fine Print Prevention Act." We want to be sure that we can, of all the things we do, take out the fine print, put in the confidence, and do what is right not only for ourselves but the rest of the country.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I yield 15 minutes to the Senator from Idaho.

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

Mr. CRAIG. I thank my colleague from Oregon for yielding.

I have been enthralled by the discussion that has gone on on the other side over the last few minutes in their use of the word "community," and the discussion of my colleague from Connecticut of the barn raising.

I come from a rural State. I come from a State that is just 100 and a few years old. The reason we had barn raisings in our State was because there was not a government. The reason we developed a sense of community is because there was not a government. Governments do not create communities. They destroy communities. They destroy voluntarism. They destroy individuals coming together to provide for themselves and their community. We all know that.

The reason there was a barn raising and the community gathered was because there was no FHA loan. There was no Federal program. No, the Government did not pay for the barn. The individual paid for the barn. He called up his neighbors and he said, "Would you come and help me raise the barn?" That is community action. That is in the absence of government.

My colleague also mentioned he had 55,000 insurance employees in his State. My guess is that after the Clinton-Mitchell bill passes, within 10 years, he will probably have 150,000 insurance employees in his State.

One of the reasons that more than likely will occur is because of the phenomenal complication, the phenomenal intricacy that is involved in little terms like "community ratings" and "geographic areas that result in 250,000 or more," that establish certain levels of costs and the kinds of necessary threadings and the loopholes or absence thereof that the insurance industries of this country will have to begin to comply with and the paperwork that will be required.

Now, is that going to happen? Well, let me suggest that in any other, not federally run but federally controlled, federally monitored, federally designed health care system around the world, that is all true. I have to believe that in the Clinton-Mitchell approach that, too, will be the case—not tomorrow, or 2 or 3 years from now, but progressively over time as a National Health Benefits Board begins its approach put upon it by the pressure of the politics of America to say add this benefit and add this benefit and add more. There will be no Government program, or should I say Federal employees insurance program, after that.

I thought that was a fascinating debate this afternoon. It will be the standardized approach that will be designed by this board. So let me at this moment then talk about the Mack-Coats amendment that is very important if we are going to march down the very dangerous path that this huge bill that none of us have really yet had the opportunity to detail may send us.

If I as a Senator am going to be subject to the National Health Benefits Board, then I wish to know publicly what they are doing. I do not agree with Senator MITCHELL that they ought to meet in private. I do not agree that their decisions ought to be secret. And the reason I do not agree with that is because it will affect me. But it will also affect every other American citizen.

In 1974, I was a freshman State senator in Idaho, and one of the first pieces of legislation that I ever voted on was a bill called the Idaho Sunshine Act. That was a bill that came out of the State of Florida. We all know about it. It was the beginning of a period in time starting in the mid-1970's when we moved toward openness in government like never before, when we believed as legislators, whether it was at the State or the Federal level, that, doggone it, we were making decisions that were important enough that the public ought to be allowed to participate. And, thank goodness, we had a free press that said: You are darned right; it ought to be open. And we are going to continue to push you, public legislators, until you open government. And we opened it. We opened it aggressively through the 1970's and into the early 1980's, and we all are better off for it.

Now, we are talking about probably the largest piece of legislation that in my 14 years of service to the State of Idaho I have ever had the responsibility of analyzing and voting for or against, the largest entitlement program in the history of the world, potentially the largest economic program ever in the history of this country. And yet, embodied within it, are boards and commissions that are to meet in secrecy.

Why in the heck would anybody on that side of the aisle or this side of the aisle ever bring a bill to the floor of the Senate that had that kind of provision in it?

The reason is simple. They did not know what was in it. They had not read what was in it. It had not been written in a committee. There were no committee hearings. It was a cobbled up piece of legislative trivia that now is falling apart. The reason I use those terms is because it is time we became very, very serious about what we do here. And that seriousness says that if we are going to redirect through a Government program one-seventh of the U.S. economy, we deserve to have open, public hearings, open committee hearings and subcommittee hearings, and bring about all the details and all of the tests that we normally afford any given piece of legislation.

Why? Why, in the last minutes of this Congress before we go out on recess, were we asked to vote now on a 1,400-page piece of legislation?

Well, there are a lot of reasons, I suspect. None of them are pressure from the American people. The American people are not saying we have to have

this now. They are saying go carefully and go cautiously, because what you will do to us will be greater than anything you have done to us or for us since the Social Security Act of the 1930's. And so you must go carefully and you must go cautiously.

As you go, why in the heck are you suggesting that any of those deliberations, any of those decisions that will provide or examine or determine or lay out, and therefore proscribe, all of the benefits that would be in a package, why should they be done secretly?

Now we have a quasi-governmental body known as the Federal Reserve. They are allowed to operate in secrecy even though, after they have made their decision and implemented it, they can then announce it. Here is the reason: Because it is possible, if it were done in an open public forum, that an individual could move rapidly to profit by it. The Congress of the United States said that ought not be allowed. We ought not allow an individual to personally profit by an act of the Federal Reserve Board because they were in the right place at the right time, tied to the right institution, and could move rapidly to cause that to happen.

But the Senate knows that a National Health Benefits Board is an entirely different creature. Because what they do, and their determinations, and as they send them to the U.S. Congress, they are going to tell the American people for what they will be covered, how their health care will respond as it relates to their needs. So it is time that we work the process, but a great deal more diligently than we have been allowed to on this most important piece of legislation.

It is time that the meetings be public. It is time that we do everything that the Federal Advisory Committee asked us to do. And, by the way, we all know that the Federal Advisory Committee Act is a creature of this Senate, of this Congress. When we say to the executive branch of Government, here is how you will operate, here is how, or here is the forum in which you will make these decisions, and you know the litany as I know the litany—public meetings, published notice of meetings in the Federal Register except for reasons of national security, making meeting agendas public, permit interested persons to attend, to testify, to file written statements, make records, meetings of minutes, graphs, and other documents available to the public, keep detailed minutes or transcripts, and allow the public to buy them, make records of funds received and disclose them to the public.

This is a simple summary of what that law requires. Why would possibly the most important piece of legislation in a quarter century be exempt from that process? Why would the boards and the commissions that are embodied and, therefore, created by this piece of legislation allowed to do that or to do differently than that?

I will tell you why I think it is so. Because this was a badly thought up and quickly cobbled together piece of legislation, and therein lies the great tragedy. That is why we now day by day, hour by hour have to go through it section by section. And, yes, we are reading the fine print. We are finding out that there is a lot in it that we do not like. We are bringing those amendments to the floor, and our colleagues on the other side are agreeing with us. Neither they nor us want to be embarrassed by a final product that might leave this Senate.

So I hope we would stay here and continue the process, and that the public is allowed to listen, as they are—this is an open forum and what we say and do here is public, and it is observed by the public—and that we would work our way through this page by page, section by section until such time as it is either determined that this vehicle cannot pass, nor can it stand on its own, or we have simply been able to correct it.

I am one who believes you cannot correct that much. I am also one who believes in health care reform in a substantially different approach than is embodied in this legislation. But everything that I believe in that relates to health care reform is open, is public, allows the citizens who will most be affected by the law to watch the determination of how that law will be administered and the effects it might have based on the policies that are created by it.

So I hope that the Senate will support the Mack-Coats amendment. I thank my colleagues for bringing that issue to the floor as we work. I hope we will continue to try to make a very bad piece of legislation a slightly better piece of legislation.

I yield.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. I yield such time as he may consume to the Senator from Connecticut.

Mr. DODD. Thank you, Mr. President. I will not take much time here. I intend to digress from the subject matter of health care briefly to talk about the pending crime legislation.

But before I do, I want to respond to my colleague from Idaho. Sometimes, in debate we engage in a little hyperbole. I know I have. But I do not want to let stand the notion that Government has destroyed voluntarism in this country. Quite the contrary. I served as a Peace Corps volunteer for 2½ years representing my country. That program was created by Government.

There are thousands of others who serve as VISTA volunteers all across this Nation—another program set up by Government. The National Service Program, which in a bipartisan fashion we passed in this Congress, will ask thousands of young Americans to make a contribution to their communities. The United Ways across this country receive substantial support and backing from State, local, and the National Government. Teach America asks young Americans who finish college to go out and work in some of our toughest schools in this Nation. The Points of Light Program, which George Bush championed, encouraged and expanded voluntarism and has been strongly backed by Congress over the years.

And the list goes on—Big Brothers, Big Sisters, police athletic leagues, and Boys Clubs—all rely on volunteers. In fact, I would argue that today there is a greater sense of voluntarism in America than maybe at any other point in our history.

So the notion that Government destroys voluntarism or a sense of community I just cannot let stand without challenging——

Mr. CRAIG. Will the Senator yield?

Mr. DODD. I will be glad to yield briefly.

Mr. CRAIG. I believe when the Senator served on the Peace Corps as a volunteer he was provided with the cost of living, to some extent. I do not dispute the fact that there are some Government programs that provide certain things that allow people to do something they otherwise would not. I doubt that the Senator could have personally volunteered on his own time without his own money to serve in the Peace Corps. I am not disputing that. What I am suggesting to the Senator is that while there are a good number of Government-sponsored programs that are called volunteer programs, the true definition of a volunteer is when you do something for someone else and you are not paid for doing it. That is the true sense of voluntarism.

Mr. DODD. Mr. President, if I can reclaim my time. Let me reclaim the time.

Mr. CRAIG. I do not dispute that.

The PRESIDING OFFICER. The Senator will withhold.

The Senator from Connecticut has the floor.

Mr. DODD. I say to my friend that at $100 a month I considered my service in the Peace Corps to be volunteering, as do most of the people who have been through that program and similar programs.

I just do not want to let stand here the notion somehow that is destructive. Over the years, many good people have served or volunteered and contributed to our country and our communities. The notion that Government programs destroy voluntarism just does not stand up in the light of day when you consider the thousands of people who have served and who continue to serve as a result of programs sponsored by the Government.

Mr. LOTT. Mr. President, parliamentary inquiry.

Mr. DODD. I would like to proceed, if I could, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. Mr. President, we are talking here about health care. Obviously, that is a critically important issue, critical to every working family in the country; in fact, to every American citizen regardless of age or geography. And it is vitally important that we continue this debate, in my view, and hopefully complete it with a product that we can all be proud of and return to our respective States and districts at the end of this process having done something that has defied 7 American Presidents and 30 Congresses over the past 60 years.

However, Mr. President, that is not the only issue which presently occupies the minds and attention of the American public.

THE CRIME BILL

Mr. DODD. Mr. President, it is very clear that one issue is a source of even greater concern to most of our citizens than even health care, and that issue is crime.

In many of our communities our children are being slaughtered before our very eyes. People in communities that used to be secure from even the prospect of any violence are no longer immune. We all know that, whether you live in rural America, suburban America, or urban areas, crime is a complex, disturbing, frightening issue that defies any immediate solution. And we are all striving to find some answers so that we can begin to turn the tide.

But the answer to these problems is not simply more police officers, more jails, and more prosecutors.

I do not know of anybody who believes that. Obviously, we need more police officers, jails, and prosecutors because of the wave of crime that is affecting our Nation. But anyone who believes that merely providing more resources, more manpower in those areas, is going to ultimately solve the problem, must be living on another planet. We are going to have to address the underlying causes that turn some of these young people to a life of crime, that causes them to engage in violent behavior.

A lot has been said about the crime bill in a last few days, and a lot has been made of the so-called pork in the crime bill. I want to take a minute and talk about one of those areas that has been so designated as pork, or unnecessary, or unrelated to the issue of dealing with crime in our country.

There was a proposal that was authored here in this body in a bipartisan way by the Senator from New Mexico [Mr. DOMENICI], the Senator from Missouri, [Mr. DANFORTH], the Senator from New Jersey, [Mr. BRADLEY], myself, and others—an ounce-of-prevention program to take resources and make them available to community-based organizations that are trying to find alternatives for the youth of this Nation.

Many of these organizations, such as the Boys Clubs, Girls Clubs, Big Brothers, Big Sisters, Police Athletic Leagues, and church groups, are out there every single day in the trenches trying to make a difference in the lives of young people. They do not have all the answers. But they offer these young people activities to be involved in, and role models, and the hope that there is a better way of life than the life of crime. With additional support for these programs, we can make a significant difference in their lives.

If you believe these young people are inherently evil, I suppose the idea of Senator DOMENICI, Senator DANFORTH, Senator BRADLEY, and Senator DODD does not make any sense. But if you believe that these young people are not born evil, are not born cruel, are not born determined to engage in a life of crime and thievery and the like, then you ought to at least listen to the people out there every day who are trying to make a difference in these people's lives.

I will cite one example if I can, Mr. President. I have visited and spoken in every single public high school in my State in the last 10 years, sometimes on several occasions. I have tried to attend as many after-school programs in my State as possible. I spent a few hours recently in Stowe Village in Hartford, CT. It is arguably one of the toughest neighborhoods in my State. It is a classic example of what has gone bad in housing in urban areas, where there are older brick buildings with not a blade of grass, graffiti everywhere, and not much to offer anyone.

There are thousands of people who live in that development, and many of them are children. In fact, it is estimated that some 2,000 to 4,000 young people live in these housing complexes. Mr. President, there is an after school program at Stowe Village. It can serve only 125 kids. There are no athletic facilities, no playgrounds with organized sports activities. What they can look forward to after school and on summers nights are gangs, corridors that are crime-infested, and drug problems running rampant. The 125 people who work with those young people every day are struggling to try to offer them a better, different path.

Senator DOMENICI, principally, along with Senator DANFORTH, Senator BRADLEY, myself, and others, came up with the idea of trying to take some of these crime dollars to support these community-based organizations. The dollars would go directly to them. Not through your State, not through your local mayor's office, but directly back to the community-based organization. They could apply to one place, not to seven Federal agencies. One-stop shopping. So the dollars would go directly back to these community-based organizations and give them a chance to expand the enrollment for these young people in after-school, night, and summer programs. That is now called pork in this bill.

This idea did not come just from a bunch of Senators and staffers sitting around here. It came from our police officers, our streets, from the people out there who do not give speeches, who do not issue press releases, but who run these programs every day. They see the value of it. They have seen examples, day after day, of turning a young life around.

I think it is deplorable and shameful that as we consider this crime bill today we have people in ads on television and people standing up and saying that is not what a crime bill ought to be about.

I accept and strongly support, Mr. President, additional police officers, prosecutors, and jails. But do not tell me that trying to turn a kid away from having to face that police officer, or to stand before that judge, or having to get in a cell in a jail, is not a better piece of investment than the alternate path. But investment in our youth is now called pork. That is one of the reasons the rule was defeated in the House, because programs like the Domenici-Danforth-Bradley-Dodd proposal have been indicted.

I think we did a good job here on incorporating that provision in the crime bill. I would hope that as the President searches for votes to try to get the rule passed, he would not placate those elements who are ripping the heart out of some of these good programs that would make a difference in our cities and towns across America.

Mr. President, I hope that those who felt so strongly here in the Senate when we fought for those provisions will stand up and defend these so-called pork programs in the crime bill. That will, I think, make a difference.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

Mr. PACKWOOD. Mr. President, I yield 10 minutes to the Senator from Iowa.

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

Mr. GRASSLEY. Mr. President, I rise in support of the amendment that is pending. But we are not hearing anything from the other side of the aisle about the pending amendment because I think it is very difficult for people on

the other side of the aisle, or even anybody on this side of the aisle, to defend secrecy in Government. So you are hearing debates on everything else other than the Mack amendment from the other side of the aisle.

But since they have raised some issues unrelated to the pending amendment, I would like to take just a little bit of my time to respond to some of those points that have been made, because we have spent a lot of time this afternoon on other subjects of health care. That has been the point of departure expressed on the other side of the aisle, because in talking about other issues, they can avoid the issue of whether or not we ought to have secrecy in Government, which this legislation provides for.

It is kind of like a graduate seminar on how to reshuffle one-seventh of the gross national product. The other side of the aisle—those who have great faith that Government always does well, always does good—do not really want us to focus on the fact that a 1,400-page bill would do that.

So instead they want to talk about the health care that Members of Congress have. They do not even want to talk about it factually, as they should. I think that is demonstrated by the points that my good friend from Alaska, Senator STEVENS, made a couple hours ago.

They are making a point about having health care like we in Congress have. But what the American people are sending from the grassroots is a very clear message, that they are very scared of what Congress is going to do to their, our people's, our constituents' health care plans, when Congress acts.

There is a message coming up from the grassroots, that if you in Washington have a problem like people who are uninsured, then take care of that problem. But do not screw up our health care plans.

The 1,400 page bill before us will screw up a lot of the good health care plans that Americans have already.

I would like to refer to the cafeteria plan of the employees of the Pella Corp., Pella, IA, a Dutch community that every spring has a famous festival of the tulips. This Pella Corp. manufactures outstanding Pella windows, windows for homes, windows generally, an outstanding product, a very good company, I believe a very profitable company, with a very good plan of health care for their employees, a cafeteria plan that can be tailored to the needs of each individual employee.

This 1,400 page bill that we have before us will do away with cafeteria plans in America, so that those employees at Pella who are so satisfied with their programs will have to go into some plan that cannot be tailored to individual family needs.

What does this bill do with the plans for the self-insured? Remember this, that there are 22 million employees in America covered by self-insured plans and for all of those who are working at a place with less than 500 employees, the legislation before us does away with the health coverage of those people.

Twenty-two million Americans if this was over 1,000 employees would be deprived of this option. And so you talk about the health care, on the other side of the aisle, that we have in the Congress of the United States because you want to avoid what this 1,400 page bill does to the health care plans of a lot of American workers.

What these American workers are sending in their message to Congress is that they just want to be left alone. That is a plea that we ought to hear as we try to take care of the problems of those who are not insured. We ought to be able to do it in a way that we do not foul up other people's health plans.

Now, to the issue before us, the issue of secrecy, the people who back this bill want this National Health Board to be able to meet in secrecy. They have great faith in Government. So, consequently, they have greater faith if that Government can act in secret.

The New York Times had this to say about the First Lady's task force when it was meeting in secret. The New York Times reported: "It is easier to find out who is in charge of military intelligence for the Joint Chiefs of Staff than to find out who is designing cost controls for President's Clinton's health care plan."

This spirit of secrecy has permeated the deliberations of the executive branch, their plan presented to Congress last fall, and it has found its way into a supposedly whole new approach in the Clinton-Mitchell bill.

To exempt, then, the deliberations of these boards from the FACA now in spite of the plain meaning of this statute, the proponents of this legislation do not want to conduct the business of these policymaking boards in the sunshine. The position of the authors of this legislation is very disappointing, particularly because they represent the party of a President who rode into Washington on a horse called "Change." Some of the arguments that are put forward in support of secrecy by the national board or even by the lawyers who are trying to defend the secrecy of the First Lady's task force stretch credulity.

You might be able to argue, on the one hand, as the Justice Department did, that Mrs. Clinton's position as First Lady was a very unique status and might exempt her from the Federal Advisory Committee Act, the act that the national board is exempted from here. But it seems quite a different thing to say that actual determination of the national board ought to be exempted.

Obviously, complying with the Federal Advisory Committee Act is not as efficient or as pleasant for the executive branch as meeting in secret and cooking up a health care plan or making policy decisions on whatever we pass in the basement of some Government bureaucracy, kind of a shadow Government-type approach to policymaking.

Our Government, does not always make efficiency the highest value.

The court chided the administration for seeking "the judicial rewriting of an inconvenient statute." Judge Lamberth regretted, as I do, that one of the first actions taken by a new President is in direct violation of a statute enacted by Congress.

But the decision was not a complete victory on behalf of open government. Because in addition to the task force itself, 300 to 400 experts have formed working groups to devise a health care plan. Their identity, according to the New York Times, is treated as a White House secret, and they have been told not to discuss their work. In fact, few have been identified and their status in the Government is murky at best.

The court held that the Federal Advisory Committee Act is unconstitutional as applied to these cluster groups. It found that requiring openings at the meetings of these groups would violate the President's power under article II, section 3 to make legislative recommendations to Congress.

But it is within these cluster groups that the detailed work of devising a national health care system is being done. These cluster group meetings are closed to the public. The specific issues being addressed by particular cluster groups are not even fully known to the public. These cluster groups compose the health care task force, and as such should be subject to the same laws as the task force itself. It is simply fiction to suggest that the cluster groups are somehow distinct from the task force itself.

The President stated before the court decision that opening task force deliberations:

> Would be like opening the White House at every staff meeting we have. We can't do that.

Unfortunately, this statement misses the point of the statute. Opening task force working group meetings to the public is not at all like opening White House staff meetings. The President has every right to keep private the meetings of his staff at which policy is developed. His staff also can certainly meet privately with individuals. But the formal cluster groups include many individuals from the private sector whose identities have not been publicly announced. Who are these people? What interests do they represent? What interests are gaining access to the making of very important public policy unbeknownst to the public?

Reports indicate that many of the outside advisors are academics. The assumption, I suppose, is that they are

neutral experts without interests to advance and protect, or without ideological axes to grind. Unfortunately, that is not the way the world works. The fact that they might be academics certainly does not provide sufficient assurances that they are without real-world commitments. If the President is not going to have his own advisers develop health care policy, then the public has every right to know who is developing it.

Could I have 5 additional minutes, please? If you do not have it, I can understand.

Mr. PACKWOOD. I do not have it. I have six more people coming, and I have less than an hour and a half.

Mr. GRASSLEY. I ask my colleagues to adopt the Mack amendment because we ought to be doing everything in the sunshine. If we do, the mold will not grow there.

Mr. PACKWOOD. I like that for the closing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Oregon for yielding me some time and for the outstanding job he is doing as one of the managers of the bill, along with, of course, the distinguished chairman of the Finance Committee.

Mr. President, earlier I tried to make a point of order to inquire about what we were debating. We have talked baseball, crime, health care, just about everything has been discussed on the other side of the aisle but the issue and the amendment before us.

The issue is secrecy. I just wanted to remind the Members what the amendment that is actually pending here, because it would be very difficult to figure it out if you were actually listening to the debate as we go back and forth.

But I think it is very appropriate that it has been offered by the Senator from Florida—the Sunshine State. This is a sunshine amendment. Let us let the Sun shine in. Let us find out exactly what these boards and commissions are going to be doing if, in fact, they are created, which I certainly hope they will not be.

I think we have found with this amendment another bullet in the Lethal Weapon 3, which is what we have called the latest rendition of the Clinton-Mitchell bill. The bullet here is secrecy. And it is not just an accident.

We heard yesterday on the $10,000 penalty, "Oh, gee, surprise. We really did not know that was in there."

We all knew it was there, though, the truth be known.

And now, we have another surprise, another bullet.

Secrecy? Oh, you mean this bill? This monstrous bill allows for boards and commissions that will determine the future health of the American people to be determined in secret? How could that be?

Well, let us talk about that. And that is what this amendment is all about.

On the other side of the aisle, you cannot say that "This is once again something we did not know was in there, so we will accept your amendment. We embrace it. We love it to death. No, we did not want secrecy."

It is in here repeatedly and it is a very fundamental point that is involved. This amendment would require that all boards, commissions, and advisory committees established under the Clinton-Mitchell bill operate in sunshine. The Clinton bill exempts the National Health Benefits Board in section 1216 of the bill. It also exempts the National Health Care Cost and Coverage Commission in section 10005, and the Agency for Health Care Policy and Research in section 3202(c) from Federal Advisory Committee Act and the Government and Sunshine Act.

Under these acts, it says that a Federal board, panel, and committee must meet in public. Let the public know the agenda, permit interested persons to attend and testify, make records of what happened, keep detailed minutes; basically just to keep it open and let everybody see what is going on within their government. These are Federal employees.

So that is what the amendment would do. It would strike out the secrecy in this bill and say they must all be public hearings.

Now, I think the reason why we are in trouble here is because this whole process began in secret. We had the task force put together by the First Lady, Hillary Clinton, and Ira Magaziner a year and a half or so ago. They met in secret. Then we found that those recommendations were sent to Congress. And eventually the bill that is before us, the Clinton-Mitchell bill, was compiled in secret. The Finance Committee had a meeting in the public. They had debate, they had votes on into the night, and something came out, an outline came out. And then there was a bill developed behind that.

But this one was something that has been merged together, again in some meetings back here in the back corridors. So, again, secrecy was involved.

Now we are saying, let us air it out, let us find out what is in the bill. But the bill, as a matter of fact, has in it the requirement that these boards and commissions could or would also meet in secrecy. I do not think the American people want that with their health care.

Next month, the Clinton administration must go to trial. The First Lady, Hillary Rodham Clinton, and her health care aide, Ira Magaziner will have to testify about the so-called health care task force that created the original Clinton health plan.

Three groups, including the Association of American Physicians and Surgeons Inc., sued the Clinton task force in February 1993, saying that the task force violated the Federal Advisory Committee Act. This act says that if a task force is not made up totally of Federal employees, then the panel must meet in public.

Mr. President, the secret Clinton health care task force worked in secret. The inner workings of this task force were kept away from the American people. You would think that an issue which affects all Americans would be discussed openly, and decisions made by a health care task force would have public input.

The First Lady and Mr. Magaziner, though, refused to open their meetings to the public—they refused to tell the American people what they were doing. Mr. Magaziner testified under oath in March 1993 that only Federal employees were on the secret task force—so the Federal Advisory Committee Act didn't apply to them.

Now the Clinton administration has changed its tune. Mr. Lloyd Cutler, the White House counsel, says today that the White House will release all documents related to the task force—in 3 weeks. How convenient. Let's wait until we're done here on Capitol Hill, then spill the beans. Thank you, Mr. Cutler.

When lawyers for the groups who brought suit found about 357 people on the task force who were not Federal employees, the First Lady and Mr. Magaziner say now the task force had nothing to do with President Clinton or his health plan. The way Mr. Magaziner put it, all those 500 to 1,000 people were in the Old Executive Building chatting about health care over tea and cookies on Government expense.

Why on January 25 of this year, during his State of the Union Address, did the President thank the task force and his wife for work on health care? Why did Mr. Magaziner, in a letter to the court, say that the task force's goal was to "prepare comprehensive health care reform legislation." Let's be honest here—the Clinton-Magaziner secret task force was charged by the President to create a plan for the gargantuan Government takeover of health care, the remnants of which—the Clinton-Mitchell bill—we are considering today.

If the administration loses next month, the White House will have to repay the almost $20 million spent on the task force, mostly made up of special interest representatives.

The reason why we have the Federal Advisory Committee Act and the Government in the Sunshine Act is to stop things like what happened with the secret health care task force. The Clinton-Magaziner task force was mostly

made up of people who had an interest in heavily-regulated, Government-directed health care. Representatives from two managed care proponents—the Kaiser Family Foundation and the Robert Wood Johnson Foundation were on the panel. Legislation dealing with one-seventh of the economy and all Americans should not be made in the dark by special interests.

It's comical that the excuse the First Lady and Mr. Magaziner used for the task force's secrecy was that they didn't want "special interests" to pressure the task force participants. There was no pressure, alright—the special interests were the task force representatives.

So we have an administration that came to town and said there would be no more business as usual. They were right—they now do their business in the dark, away from the American people. We have an administration that said it wanted to get rid of special interest influence. We see, though, that the Clintons have turned the White House into a Romper Room for special interests.

The Clinton-Mitchell bill continues to hold up this veil of secrecy. The bill exempts several bureaucracies it created from the Federal Advisory Committee Act, including the National Health Board, which sets the standards benefits package; the National Health Care Cost and Coverage Commission; and the Agency for Health Care Policy and Research. Clinton-Mitchell also exempts certain panels it creates from the Government in the Sunshine Act.

The Mack-Coats amendment, which should be passed, makes all of these bodies open to the public. These bodies would have to meet in public, publish notices of meetings in the Federal Register, allow interested people to attend the meetings, and keep minutes of proceedings.

The Mack-Coats amendment makes sense to me. The boards that would tell Americans what health benefits are "medically appropriate," the commissions that would put heavy mandates on businesses, the panels that would determine the direction of a Clinton-Mitchell health care system—shouldn't all of these bodies be open to the American people?

This amendment would stop callous social engineers like Mr. Magaziner, who care nothing for ordinary Americans. The arrogance of power can only be curtailed by letting the American people participate in debates. How many Magaziners would, without this amendment, try to foist harmful policies on this country through Clinton-Mitchell's boards, commissions and panels? I urge my colleagues to support Mack-Coats—vote to stop Mr. Magaziner from meeting again. Vote for the American people's right to know.

THE CRIME BILL

Mr. LOTT. Mr. President, since I have some time remaining, I would like to join the fun and talk about some other issues; not baseball at this time, but I have been wanting to comment a little bit on the crime legislation we hear so much about.

Never have I seen more—I do not know how to describe it because I do not want to impugn anybody's integrity, but—misstatements about what is in the crime bill. It has continued to be reported in the press, first of all, that it is paid for: Do not worry about it; we are going to pay for it by savings, cutting back the size of the Federal Government.

But remember, this bill went from $5 billion when it was originally proposed to $22 billion when it passed the Senate last year to $26 billion when it passed the House to $33 billion. I am sure that probably at least $13 billion of this bill will be added to the deficit. It is not paid for.

Second, you continue to hear assertions that this is going to put 100,000 new law enforcement people on the streets. Nobody in the Senate believes that. It will not even put 20,000 there.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LOTT. I know we have limited time, so at this point I will yield the floor.

HEALTH SECURITY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I will yield 10 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, let me say I join my colleagues, Senator MACK and Senator COATS, in strongly endorsing and cosponsoring their amendment that probably goes to the essence of this ludicrous excuse of a health care program for this Nation. I use those words, and they are strong words, because it is a ludicrous excuse. And the reason we find ourselves in such an untenable position is because of the manner in which this document was produced.

Most of it comes from the great task force. Most of this was done in private. Most of this was done in a manner such that, as we now read this bill, we find glaring, glaring deficiencies—deficiencies that, if there had been public hearings, would never have existed.

I understand at some point in time the majority leader is going to move to rectify this monster. Some time ago, we had "taxasaurus." I said kill the "taxasaurus." That goes for this. We should kill it. We should kill it because it is a danger to the health and welfare and well-being of America and America's families. That is this monster, the Clinton-Mitchell proposal.

Let me say, this is really, for all intents and purposes, the Clinton bill. As a result of the manner in which this bill came to life, we find ourselves in this terrible predicament where even its strongest supporters must admit that it is replete with errors, with substantial deficiencies. And then we hear "We will correct it."

Let me cite just one of them. Behind closed doors, a group of people got together and came up with this wonderful idea: We want insurance for all—not a bad idea—and they went so far as to say that because we want to guarantee universal coverage and coverage for all, if a person were not to pay his premiums or her premiums, that family would not lose coverage. Can you imagine that? I think it is page 1432—I want to read this incredible provision. In other words, you enroll in a program and you pay for a month, 2 months. And if you read this literally, just by your enrolling and paying a premium for 1 month, in the second month when your premium comes due, if you do not pay, guess what—you cannot be canceled.

What a terrific plan. Everyone in America should run and sign up for this plan. This is the plan that will not cost you a penny. It will not cost you a penny. All right, it will cost you the first month's premium. You sign up for this great plan; you pay 1 month, and then forget it. You do not have to pay. You do not have to pay because you cannot be canceled. What a terrific plan. How could the geniuses who put this forth have come to this point? Was it in error? Was it a mistake? Did they somehow make a mistake? The language is, "In no case shall the failure to pay amounts owed under this Act result in an individual's or family's loss of coverage."

I am wondering if the Senator from Oregon had an opportunity to take a look at that. I ask, does it mean what I think it means? In no case? Listen to this: "In no case shall the failure to pay amounts owed under this act result in an individual's or family's loss of coverage."

It does not say if the person forgets the premium for 60 days or 30 days, or if there is a terrible accident and they are inconvenienced somehow. It says "in no case." Is that an accident? Was that thoughtful legislation? Who is going to pay?

What happens if you have a million people in this one plan and one person says they are not going to pay because it says "in no case." And then 10 others find out. And then 100 find out. And then 10,000 find out and do not pay. And then people begin to wonder what is going on? And the cost goes up and up and up for the rest remaining in the pool.

If the cost goes up for the rest remaining in the pool, what takes place?

Mr. DASCHLE. Will the Senator yield on that point?

Mr. D'AMATO. For a question?

Mr. DASCHLE. Well, for a question or clarification. A question.

Mr. D'AMATO. I would like to make my point. When I finish I will be happy to yield. I do not intend to speak long, but I want to make the point. The point is that this thing was put together behind closed doors. That is why you have error after error. Penalties: $10,000 penalty if a person gives a benefit that is too high. How did that get in there? And then the whole Senate votes to change it.

I will tell you how. It got in because you had people who may have been well meaning, but they have their own intentions, their own program; they are going to put this through come hell or high water. So here we are. Now someone will offer an amendment and they will drop that provision. But this was the great legislation. How did it come to pass?

If you had open hearings, open meetings, do you not think that people who provide coverage, insurance companies—of course, all insurance companies are bad now, according to the proponents of this legislation; they would have you think insurance companies are some evil monster—do you not think maybe they would come and contribute something to the debate?

And they might say, "Look, if you do this, why, you will discourage people from paying; you will have large numbers of people who will not pay; you will have premium costs shooting up for the balance of people who pay. You create a lack of incentive for people to be responsible. You tell them, 'Don't pay because you can't lose your coverage.'"

That is ridiculous. And here we have—in this very same grotesque monster of a bill that would cripple health care in this country if enacted into law—we have this board that is going to operate outside of current law. It is a board that will make some of the most important and crucial decisions as it deals with the health care needs of our country.

This board is going to determine the actuarial value of the standard and alternative benefits packages. If the health task force could put together a bill that is so deficient and secret, imagine giving this board, under the color of law, the ability to go ahead and make these kinds of determinations. They are going to determine for us the kind of medical programs that can and should be undertaken and utilized. They will be determining for us the future of medicine—the future of medicine—in terms of defining the kind of care considered medically necessary and appropriate.

My colleagues have spoken before me and have enumerated the incredible powers that this board will have. I suggest, No. 1, that today if we look at a board that operates almost entirely in the light of day in determining coverage under the Medicare program, we find incredible problems. When new devices and medical procedures are going to come into being, even that board has open, public hearings where people can present their case, where people on both sides can be heard, with certain exceptions, and that is only when there is written notice and reason posted.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO. It is inconceivable we would allow this provision to stand and, therefore, I strongly support the Mack-Coats amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, just to ask a question of the chairman and, I think, to explain an arrangement we hope we have worked out. After we vote on the Coats-Mack amendment at a quarter of seven, the majority leader has an amendment—and we have worked out a pretty good system of comity of going back and forth —we would have an amendment then for tomorrow morning. I assume that is when we would go.

Then, as I understand, we will go on an amendment from Senator MOYNIHAN relating to the number of residents, interns, whatnot.

Mr. MOYNIHAN. Mr. President, that is our understanding. It is informal, but we have had no difficulty at any time and are not going to. I believe the distinguished Republican manager is going to join me in the amendment I will offer.

Mr. PACKWOOD. Absolutely.

Mr. MOYNIHAN. Mr. President, I have the great pleasure to yield the remainder of our time, which I believe to be about 25 minutes?

The PRESIDING OFFICER. The Senator has about 27 minutes.

Mr. MOYNIHAN. Twenty-seven minutes. I yield the full 27 minutes, if he should so wish, to our revered President pro tempore, the Senator from West Virginia.

The Senator has been thinking about this matter for some length. He, of course, is the master of legislative procedure and detail in this body, and he is going to give us the benefit of his judgment as to where we stand in terms of deliberating this particular issue and, I think, the Senate calendar.

We do have to acknowledge that the calendar is implacable in its forward movement, and there is other work yet to be done before we can close out the appropriations bills, which have to be enacted, and that whole range of things.

In this setting, I think we very much need the mature judgment and the deep, deep learning of the former majority leader, the President pro tempore.

I know that we have felt that there is still good time in which to enact a good bill. We have seen a great deal of comity as we go back and forth on amendments, and we have seen near unanimity on last evening, and we shall see it again this evening as we debate the measure laid down earlier today by the Senator from Florida [Mr. MACK]. I hope we might find the same degree of accommodation to the majority leader's amendment when that vote comes later in the evening.

The point, Mr. President, is that we are here, and this is the first week of the typically normal recess. The calendar is running, and we need the counsel of the great wisdom—I took the liberty of saying—and the profound learning of the President pro tempore.

Mr. President, I yield the remainder of our time to the President pro tempore.

The PRESIDING OFFICER. The Senator from West Virginia has 24 minutes.

Mr. BYRD. Mr. President, I certainly am grateful to the very distinguished manager of the bill, the senior Senator from New York [Mr. MOYNIHAN], of whom I shall say—not in the past tense—as Shakespeare said it:

> He [is] a scholar, and a ripe, and good one, exceeding wise, fair-spoken, and persuading.

I thank Senator MOYNIHAN for yielding me this time. I hope I will not have to take all the time he has yielded me.

Mr. President, this debate, in many respects, has been for me one of the most discouraging of my political career.

Like many other Americans who are watching and listening to this debate, I feel a sense of confusion and apprehension after listening to the claims and counterclaims that have been conjured up by the lobbying groups on all sides of the issue and by the charges which have been hurled from both sides of the aisle on this floor.

Compounding my sense of frustration is my belief that the health care issue is one of the most fundamental problems facing our Nation.

I know that our present health care system is inefficient and costly and that these costs are not equally distributed. I know that in the Federal budget, health care costs are one of the primary causes of our continuing deficits.

I also know that our present system of health care amounts to a cost equal to 14 percent of our gross domestic product and that the experts claim that, by the year 2004, if we do not change our course, those same costs will rise to 20 percent of our gross domestic product.

The last, best hope of real deficit reduction lies in getting these spiraling costs under control. Spending in every other category of the budget known as discretionary, which is simply everything which is not automatic spending

mandated by law, has been cut to dangerously low levels. We cannot look to this area of the budget for much more in the way of further cuts.

Therefore, other than raising taxes dramatically in coming years, we must look to reductions in entitlement spending and to health costs, in particular, if we are to achieve further meaningful deficit reduction.

I am concerned when I note the CBO projections of the total deficit reduction in the bill that has been introduced by the distinguished majority leader, Mr. MITCHELL.

By the year 2004, the projection by CBO estimates that only $13.8 billion in total deficit reduction will have occurred.

It is essential that we not enact a plan that squanders our last real remaining chance for significant deficit reduction. We have an opportunity to address rising entitlement costs in this health care bill, and we must not let that important goal be forgotten as we consider and write massive health care reform.

I believe the word "reform" is the operative word in this debate. What constitutes reform is central to much of the discussion we have heard.

There is vast agreement, it seems to me, on the goals of fairness, universal coverage, cost containment, minimization of cost shifting, and maintaining a quality standard for health care. Those, to me, are the central pillars of reform. The disagreements arise when we venture into areas which are more indirectly related—rather than directly related—to health care reform, and I believe that the costs rise as we go beyond trying to address much more than those generally agreed-upon central goals.

There is much in the Mitchell bill that I can support. I compliment the majority leader for his extraordinary contribution to the cause of health care reform. He has devoted many days and months and years to this effort. He is one of the Senate's most knowledgeable and dedicated experts in this area, and he has moved the debate forward by the introduction of the pending measure.

Mr. President, I have stated my concerns to the distinguished majority leader, and he has said to me that he will respond to my concerns. He knows, and I know, that this bill is going to be changed, and I am going to look at his responses to my concerns with great interest. It will be then that I will be better able to judge as to just where I will stand on this legislation at the end of the day.

Beyond the sheer budgetary folly of not trying to get our health care costs under control, the basic human tragedies that unfold daily as a result of no coverage or less-than-adequate coverage compel us to act.

But what has been obscured in the debate, it seems to me, and what President Clinton emphasized so well in his early statements on health care, is that reform of the health care system means a more economically secure nation better able to compete in the global marketplace.

In the President's 1995 budget document, of particular note is the statement on page 179 under the heading "Why We Must Act Now."

> The costs of doing nothing are enormous. Without reform health care costs will consume an additional $56 billion of our national output in the year 2000—money that could more than double Federal spending on transportation or education and training. Put another way, these savings could also boost productivity and wage growth by increasing the resources available to lift capital invested per worker by roughly half. If current trends continue, real wages will be further eroded by almost $600 per worker by the end of the decade. If we do not curb increasing health costs, we will not be able to continue bringing down the deficit or make the investments in jobs and infrastructure that we need to keep the U.S. economy healthy.

I believe that the President's statement remains correct today. It is in the overall national interest to enact health care reform. However, this bill, as it is written, goes beyond what I believe should be the scope of health care reform. The Clinton bill would reduce health costs in the year 2004 by $150 billion. By contrast, the pending measure would increase health costs in the year 2004 by at least $25 billion and by over $250 billion for the period 1995–2004.

Under the guise of reform, we cannot, we must not, try to address every issue that can be lumped under the loose category of health care. We simply cannot do it. We cannot micromanage every aspect of the social and economic fabric which touches health care in some way.

We must not use health care reform as a vehicle to increase every health-related spending program in the budget. Because, if we go down the road, we will squander most of the economic benefits of enacting health care reform. We must not enact a piece of legislation that eats away at our national productivity potential because we are frustrated over years of too tight budgets and now want to address every health care problem in our land. We just cannot do it. We have to restrain ourselves. That is not to say that there are not health care programs that deserve increased funding in health reform legislation. It is to say, however, that we should only strive to accommodate any justifiable increases in programs that are directly related to the health of our citizens without adding to overall health care spending. That should be doable—President Clinton's bill, as I said, would cut overall health care spending in 2004 by $150 billion.

Our national heart may be large—our national heart is large—but our national pocketbook, sadly, is quite small. I know. In our Appropriations Committee, we fund, as best we can, most of these programs. And I think we have done rather well in meeting the needs.

But the spending in this bill goes beyond reform.

I do not believe that that is what most Americans thought was meant by reform of the health care system. Reform of health care was explained by Mr. Clinton, and it received public support as a cost-saving measure. This was the only way to reduce our budget deficit, we were told. That was one of the primary things that most appealed to me; one of the things. But we seem to be moving away from that goal. We may be breaking faith with the people if our version of reform becomes a cover for more back door spending.

To be specific, we do not have to increase spending for WIC. I support funding for WIC, and I think we have responded fairly generously within our means in the Appropriations Committee from year to year. But we do not have to increase spending for WIC to have sound, effective reform. We do not have to increase funding for the NIH to have sound, effective reform. We do not have to set up a quota for the various medical disciplines in which a medical student may be trained to have sound, effective reform. We do not have to enact $15.4 billion worth of new public health programs to have sound, effective reform. As laudable as it may be, we do not have to add money for the Indian Health Service to have sound, effective reform.

We who claim that we are committed to reform, perhaps unwittingly, are cloaking these spending programs in the guise of reform at our own peril. We risk our credibility, because I do not believe that additional spending is what most people have in mind when they think about health care reform. The American people think we are talking about fairness, cost containment, basic coverage for all, simplicity, and reducing deficits when we advocate health care reform.

This bill, in my view, would be vastly improved if it adhered more closely to the American people's understanding and their expectations of reform. I fear if this bill were to pass in its present form—again, I say Senator MITCHELL has indicated that he will respond to my concerns, and he expects changes in this bill. We all expect changes in it. I am going to look at his responses carefully, together with the future actions of the Senate, and make my final judgment as to my own vote at that time.

But I fear that if this bill were to pass in its present form, this Senate will have destroyed any possible chance for significant deficit reduction, and will have seriously damaged our overall economic future.

On the other hand, we have a significant opportunity to reduce budget deficits, and address the serious need for

health care reform, if we will but streamline this vast piece of legislation. Change is always painful. Massive legislative proposals such as this one always, in my experience around here, always attract too much baggage. And the longer we are on the floor, the more excess baggage it attracts. We have seen some of this just in the last day or so; good programs, but we are spending more money. We are not reducing the deficit. They say "Well, it is within the cushion in the bill." That may be true. But I understood from the President's appeal to the American people and to the Congress for health care reform that it was the one way in which we could get control over these burgeoning deficits. I fear that, as we keep going down the road that we are on with this measure as it is presently written, we are not going to cut the deficit. We are going to add to it. Massive legislative proposals, as I say, always have a way of attracting too much baggage. But this effort, Mr. President, and my colleagues, is too critical for the usual program load-up and interest group wish lists.

This President has the economy growing, and he ought to say so more and more. And he has the deficit headed downward. Let us not tie his hands. If we can get entitlement programs under control, this Nation might be able to continue in these positive directions.

Much of this debate has totally obscured those basic economic considerations. I have elected to sit in the chair often this week. I have sat in the chair 3 or 4 hours a day. Why? I wanted to listen to the debate. I will not read it tomorrow morning in the CONGRESSIONAL RECORD. Instead, I will be signing mail or will be meeting with constituents, or I will be doing this or that, which is very important. But if I sit in that presiding chair up there, I will hear and learn from what is being said.

I do not sit on the Committee on Finance over which the distinguished Senator from New York presides with a degree of dignity and skill that is so rare as a day in June. I do not sit on that committee. I do not sit on Mr. KENNEDY's committee. Both committees have jurisdiction over this bill.

I have to make some decisions here based in part on what my colleagues say. Some of the speeches have been very illuminating, interesting, and informative for me. There have been some, however, that I must confess I had a hard time staying awake in the chair.

I compliment Senators on both sides of the aisle for their enlightened speeches. But there has been a great deal of needless rhetoric—and there has to be some rhetoric, of course. That is all right when one is trying to sway a great audience. But I want some answers, some substantive answers. Nobody has to sell me on the need for health care reform.

But much of the debate has totally obscured those basic economic considerations. I hope that in the coming days we can refocus our attention on those critically important concerns, tone down the rhetoric just a little bit, and try to remember why we began the discussion of health care reform in the first place.

I thought it was the way that we could get control over the entitlement and mandatory programs, which will increase over the next six years by $824 billion. Our little, puny discretionary funds—which include defense spending—are going to be increased over that period by only $6 billion.

So, that is where I thought we were going. Yet, as the days have passed, I have become more and more concerned that we really are not going in that direction, but we are going in the opposite direction.

This Senator, for one, is tired of Harry and Louise, tired of scare tactics, tired of claims that this legislation could represent the undoing of the Republic, or that it is the greatest boon to representative democracy since the writing of the Constitution. It is, of course, the fear and the slick TV ads, and some of the scare tactics emanating from the floor, and from outside the Capitol, that are mostly the products of attempts to win elections and promote political agendas.

Of course, we all like to win elections. But I think we ought to focus our attention on this, one of the most critical problems that we will ever face, on this legislation, on this debate, and keep our eyes on that ball.

Although there have been some thoughtful statements made on this floor, unfortunately, those thoughtful statements have been largely drowned out by the more highly partisan debate that we have been subjected to. Frankly, I do not have any partisan interest in this bill, one way or the other. The American people expect us to act and to act wisely. I am interested in legislation that will promote real healthcare reform, and that, once and for all, will really help to get control over our massive budget deficits.

I am sure that the American people are very sick of it all. I am also sure that all of the noise has succeeded in thoroughly frightening and totally confusing the citizens who will either be the beneficiaries of, or the victims of, what we will do here. I can only hope that we will somehow come to our senses, take a reality check, try to put our political agendas aside, pare down this bill, salvage the essential reform elements in it, and enact sound, effective health care reform. I want to do something about this problem. I see it as a bedrock issue for the good of our economy and for the welfare of our people today and far into the future.

However, I cannot be a party to any legislation, no matter how well-intentioned, that goes far afield from what is needed for solid health care reform. Neither will I be a party to the political circus, the partisan jockeying and interest group tug-of-war which have been too much in evidence on this issue.

It is my hope that in the coming days, the American people—whom we have confused, frightened and manipulated—will urge us to stop the hype and deal with this issue as they would if they served here—forthrightly, honestly, and with an eye toward the worthy goals on which most of us agree.

In closing, Mr. President, I congratulate the Senators who are on the Finance Committee and on the Labor and Public Welfare Committee for the yeoman's work that they have done. Many hearings have been held by both of those committees. There are many Senators in this body who are experts in this field. I salute them. I am sorry to say I am not one who is an expert.

I hope that what I have said will be accepted in the spirit in which I have offered it. I have not offered it as anything other than constructive criticism by which I hope we will benefit. I realize that I can be wrong, and often am wrong, but I view this in my heart as being so serious and as being our only opportunity—maybe—I do not quite agree that it is the only opportunity forever. I think that this is an idea whose time came some time ago. But it is also an idea that is going to take the best of our talents, our patients, and our expertise, if we are going to really develop a product of which the American people can be proud and of which we in the days to come can be justly proud.

Mr. President, I yield the floor.

(Ms. MIKULSKI assumed the chair.)

Mr. PACKWOOD. Madam President, I thank the Senator from West Virginia. That speech, which was only 20 to 25 minutes, has put in better perspective the problem this Senate faces than it could ever be put. We have seen graphs upon graphs upon graphs upon graphs, attempting to illustrate the same thing, but they have not illustrated it as well as you have said it.

What the Senator is saying is simply this: We have some programs in this country that are on automatic pilot. If you look back only 30 years, and took only four programs—Social Security, other Government retirement, civilian retirement, military retirement, Medicare and Medicaid, and then interest, which we have to pay, those four programs, plus interest, 30 years ago were 23 percent of our budget. They are today 56 percent of our budget. And if we do not make any change in the laws, in 10 years they are going to be 69 percent of our budget. They will squeeze out education, highways, water and air pollution, Forest Service, Park

Service, Amtrak, and everything else that we do. What the Senator from West Virginia is saying is that in this bill we are now considering, we vastly expand those programs and add new programs to them. So that the figure is not going to be 69 percent, it will be 75 or 76 percent. I have never heard it better put by anybody on this floor than you have put it. We are indebted to you, and I thank you.

Mr. BYRD. I thank the distinguished Senator.

Mr. PACKWOOD. I yield 10 minutes to my senior colleague from Oregon.

Mr. HATFIELD. Madam President, I want to also commend the Senator from West Virginia for a very excellent and thought-provoking speech. I would also like to say, concerning the Senator's speech, that the remarks I plan to make, I can share with my colleagues—and I am sure the Senator from West Virginia could also assure my colleagues—that we did not engage in any kind of collaboration on these remarks that we intend to share together this afternoon.

Mr. HATFIELD. Madam President, yesterday I came to the floor to explain my position on comprehensive health care reform. As I said, I believe the Mitchell bill is fatally flawed. I also believe that the Dole-Packwood bill leaves too many problems unsolved, and I am realistic enough to know that it cannot pass in what has become a politically charged atmosphere.

For these reasons, I have joined in the search for a middle ground as a participant in the bipartisan mainstream coalition. This group meets almost hourly to work through the difficult and contentious issues that constitute health care reform, including the cost of providing subsidies to those who are unable to afford health care coverage. But as our meetings continue, and the days pass by, it is becoming increasingly clear to this Senator that the window may well have closed on the opportunity for comprehensive bipartisan reform of our health care reform this year.

I want to emphasize my identification of comprehensive health care reform. Incremental legislation may be another issue.

Some may believe that such a result is a lost opportunity. But I believe—and from the calls and letters coming into my office, I can say that the vast majority of Oregonians believe—that it offers a chance to catch our breath, check our bearings, and chart a course for the future.

Am I advocating that Congress do nothing this year? I most assuredly am not.

There are, as we know, a number of concepts for how to reform our health care system on which we can likely find agreement. These provisions include:

Some form of State flexibility and minimal Federal preemption; assistance to rural and underserved areas; small business pools for the purchase of insurance; assurance that Americans with preexisting conditions cannot be denied coverage and that their insurance is portable if they lose their job; and a commitment to the goal of universal coverage.

I believe that the bipartisan congressional leadership should sit down with the President and write a bill that includes these areas of agreement, and then we should pass it into law.

Not everyone will be pleased that the bill will not include every component of an ideal health care reform bill, but millions of Americans in need will be happy when health care insurance is made more affordable and more accessible to them.

Madam President, I truly believe that the procedure I have just outlined is the only road that will lead to a result that is beneficial for our country at this juncture.

Let us look at what results are possible if we continue on our current path. And that means continuing the process of debating and amending—and believe me, it is going to be a long, long process. Mandates. Taxes. Entitlements. Medical malpractice. There will be amendments and debates on all of these issues—and on many more. And this road leads to one of two destinations.

The first is that the Senate and the House eventually pass a bill by the slimmest of partisan majorities. And when the House-Senate conference committee puts the two bills together and comes up with another bill, which again passes by the barest of majorities, amidst a chorus of loud voices and pointed fingers.

Such a bill will be one that nobody in this Chamber—and more important—nobody across the country—truly understands. Nobody will be able to say with any confidence that it will work, or what its consequences will truly be. It will be a bill that clearly will not have the confidence of the American people.

Senator MITCHELL spoke on Wednesday about the disillusionment that the American people have with Government. I guarantee you that this disillusionment will only increase if Congress narrowly passed a bill after a bitter partisan debate.

The second destination of the road we are on at the present will be that somewhere along the way, the bill is defeated, that nothing is done, that no one is helped.

Neither of these destinations, Madam President, is good for my State of Oregon, and neither destination is good for America.

So, perhaps we better listen to what the American people are saying. They have followed this debate, listened to it carefully, and, as I have had communicated to me, the overwhelming majority have concluded that they need more time—and Congress needs more time—to think about this issue, to examine the side effects of legislation, and to come up with a solution that does not create as many problems as it solves.

And, Madam President, there is another reason why I feel we need to revisit the issue of comprehensive reform. And that is because somewhere along the way, we have lost sight of the fact that reducing the deficit must be a goal of health care reform legislation, and that was clearly stated by the President of the United States in the Budget Act that we passed earlier on.

I would recommend to my colleagues an article in the July 25, 1994 Newsweek, by Peter Peterson. Many of us know Mr. Peterson as a former Secretary of Commerce and a member of the President's Commission on Entitlement Reform.

A brief quote from this article, he states:

> Federal health care spending now amounts to roughly $800 billion in direct outlays, much distributed without regard to need, plus an additional $75 billion in tax subsidies for employer health plans. If we do not change course, health spending 10 years from now will consume more than a third of the federal budget, compared to 20 percent today. . . . Further ahead, the outlook is even worse. By 2040, again baby boomers could push the total cost of Medicare past 20 percent of taxable payroll, up from 5 percent today.
>
> In the face of these alarming trends, you might think Congress would be obsessed by controlling health spending . . . Instead, members are busily spelling out new entitlements that will likely exacerbate the cost spiral. To help more Americans gain coverage, most of the bills offer tens of billions of dollars in new subsidies. Thousands of lobbyists are working overtime to make sure that additional goodies, from prescription drugs to long-term care, are included. The major House bill calls its new open-ended entitlement Medicare Part C. The benefit package in the major Senate Bill might as well be called Medicaid for the Middle Class.
>
> Whatever legislation Congress passes will be officially stamped 'deficit-neutral'—meaning, one presumes, that lawmakers now think that they will have done their job if only they do not make an already unsustainable situation more unsustainable. But even here there is a problem.
>
> The history of health entitlements is one of wildly over optimistic projections that always understate the cost of new benefits, while overstating the savings from reforms.

Madam President, no one can doubt that Mr. Peterson is absolutely right in that statement.

In 1965, it was projected that Medicare Hospital Insurance would cost the Government $9 billion in 1990. Well, we missed by about $58 billion, because the actual cost was $67 billion.

In 1987, we projected that Medicaid special hospital subsidies would cost $100 million. By 1992, the actual cost was over 100 times that much—it was $11 billion.

When the Medicare catastrophic legislation was passed in 1988, the cost of the new drug benefit was projected at $5.7 billion over 5 years. Just 1 year after passage, the Government reestimated the cost at $11.8 billion over 5 years—triggering repeal of the legislation.

I could go on and on, Madam President. But my point is clear. The $965 billion in entitlements that Senator MITCHELL's bill would create will cost much, much, more than current estimates.

The true impact of these entitlements is something that must be carefully and thoroughly analyzed. And I do not think that can occur in the current atmosphere.

Madam President, President Clinton and Congress have made great progress on an issue that has challenged us for many years. I commend the President and Mrs. Clinton for moving the Nation forward in its effort to reform our health care delivery system. I also have great respect for the work of JOHN CHAFEE and the mainstream coalition, in which I will continue to work. The Nation owes them their gratitude as they search to build the bridge between the Democrats and Republicans.

We all have learned a great deal about the strengths and weaknesses of America's health care system. And we all have much more to learn. Let us accept the progress we have made, let us help millions of Americans, and let us go home with our heads held high.

And bear in mind as the scripture often said there are those who are called to sow and those who are called to reap. Maybe we see this, as a futile exercise, but I see it as a very rich and fruitful possibility of sowing seed for a future harvest.

Madam President, we are building the foundations for a medical reform act but this is not the moment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Oregon.

Madam President, I compliment the Senator from West Virginia and the Senator from Oregon, who have spoken for the last 30 minutes or more about the wisdom which they have brought to bear on the pending legislation in suggesting that the legislation has not moved in the direction which was originally intended, and their statements are true.

The original thrust of the legislation had as its purpose coverage and cost containment, coverage for the millions of Americans not now covered, coverage for preexisting conditions, and for change of jobs, but also cost containment. And 50 percent of the job has not been done.

I have been meeting with the task force chaired by Senator CHAFEE going back to 1991 in a little room down the hall every Thursday where a group of Republicans would meet in an effort to craft legislation. That group has now been expanded until today there were some 20 Senators present from 9:30 to noon this morning, with Senators coming and going because of the complications of other schedules, in an effort to find a bipartisan solution to the pending problem.

Our group was joined by Senator NUNN and Senator DOMENICI, who have approached the issue from a slightly different angle with their previous work on trying to hold down entitlements which have risen so tremendously in cost.

Also present in the group were Senator KERREY of Nebraska, and Senator DANFORTH, who have worked on a bipartisan commission to hold down entitlements so we do the best we can within our limited resources without bankrupting the country.

We continue to work on that problem, Madam President. I have had doubts all along as to whether we could succeed, but I think we should make a maximum effort.

I think the business of a filibuster was really beyond the pale on this bill. No filibuster has been attempted. But, similarly, we cannot be rushed to judgment. It is important to have health care reform, but it is equally important, perhaps more important, to do it right.

And when Senator BYRD from West Virginia comes and speaks—for those who do not know, Senator BYRD is chairman of the Senate Appropriations Committee. He has been in the U.S. Senate now finishing his 36th year. For those who do not know, Senator HATFIELD is the ranking Republican on Appropriations. He was for 6 years the chairman of the committee and has been in the U.S. Senate for 28 years.

During all of my 14 years in the Senate, I have been on the Appropriations Committee working with Senator HATFIELD as chairman, and now with Senator BYRD as chairman, and I can say from firsthand experience—having managed most recently the Appropriations Subcommittee report on Labor, Health and Human Services, and Education with $70 billion in discretionary spending—how hard it is to make ends meet. When you talk about a budget of $1.5 trillion, it is a great deal of money, but when you try to meet all the needs of the Federal Government, it does not really stretch far enough.

When Senator BYRD and Senator HATFIELD say that this bill has enormous problems in terms of creating new entitlements, and Senator HATFIELD outlines what has happened when estimates have gone off by 10 times what you figure in 1965 will be the costs in 1990, we have to pause and we have to take note as to what the implications are.

We had an opportunity, back in July 1992, to craft important legislation which would have taken a significant step toward additional coverage, with an amendment to provide full deductibility to the self-employed and an amendment for insurance market reform. Those amendments might have removed a third to one-half of the 37 million to 40 million Americans now not covered. Those amendments were defeated because people in this body said, "Let's not do it piecemeal, because if we do part of it, it will destroy the incentives to do the rest of it." I think that was a mistake and said so on the floor back on July 29, 1992, when that amendment, which I offered, was tabled.

When Senator HATFIELD talks about some piecemeal legislation, Madam President, I think he is on target; not that we will not be committed to comprehensive health care. I share Senator HATFIELD's compliments to President Clinton, who has brought this issue to center stage. I compliment the members of the Finance Committee, under the chairmanship of Senator MOYNIHAN, and Labor and Human Resource, under the chairmanship of Senator KENNEDY, who have brought these bills to the floor, and what Senator MITCHELL has tried to do.

I am not sure at this point that we will be unable to produce a good bill. I am sure, however, that we ought not to be rushed to judgment and there ought not to be any political timetable.

Madam President, I had originally sought recognition to comment about the pending amendment, but wanted to speak about Senator BYRD's comments and Senator HATFIELD's comments because I think they are so important and will have a real sobering effect on this body in having us focus on what we are doing. A reality check. Maybe a sobriety check.

There is an important amendment pending, Madam President, offered by Senator MACK, which would strike lines of secrecy in the pending legislation. I compliment Senator MACK for going through this lengthy bill to find the three provisions which provide an exemption for the National Health Benefits Board, for the National Health Care Cost and Coverage Commission, and for the Agency for Health Care Policy and Research exemptions from the Federal Advisory Committee Act which would allow those boards, commissions, agencies to operate in secret.

Madam President, the requirements of the Federal Advisory Committee Act specify that there must be public meetings, that there must be notice, that there must be an opportunity for the public to comment, and their findings must be made public.

It is indispensable in a free society—especially when you have this kind of a

bill which creates 140 new agencies, boards, and commissions and gives new jobs to 40 existing bureaus—that we at least know what they are doing.

Madam President, I will not display the chart again, in the interest of brevity. We have seen it perhaps enough on the Senate floor.

But sunshine is indispensable in a democracy. This is especially evident, Madam President, when we take a look at what is pending in court today, as reported in today's press, on a lawsuit which has been brought against the Clinton administration for violating the provisions of Federal law which require public disclosure and open meetings.

The Court of Appeals for the District of Columbia ruled last year that the working groups which were put together by President Clinton's administration would be subject to the 1972 Federal Advisory Committee Act if any of the members were non-Government employees.

A very unique thing happened, Madam President.

Finally, after 18 months, the Clinton administration yesterday agreed to release the records from the task force because they were compelled to do so by the litigation. There has been an effort made to settle the litigation because, as Lloyd Cutler, the President's legal counsel, says, they want to focus on health care as opposed to the distractions.

But the opposing groups have refused the settlement. As they characterize it and as reported in the Washington Post, the plaintiffs, the board rejected the settlement partly because it would have allowed Ira Magaziner, President Clinton's health care adviser, to avoid publicly answering a pending contempt of court accusation, where there is a contention that Mr. Magaziner did not tell the truth when he filed an affidavit saying that all members of the working groups were either Government employees or consultants.

So here you have the White House, the administration, working to structure health care reform legislation. They do not comply with the law. They are working with groups who, by all indications—and we are not absolutely sure yet, because the litigation has not been concluded—groups that represent special interests. They violate the provisions of law which requires that they be open. When they are challenged, a ranking Presidential assistant takes an affidavit that they are all Government employees or consultants, which would remove them from the obligation for the public disclosure.

A long, drawn out lawsuit follows, which is taken to the appellate court and says they have to be made public. Now the issue arises where the White House, the administration, finally is willing to make them public, but the plaintiffs who brought the lawsuit refuse to accept that on the ground that there was a lie in an affidavit filed trying to thwart the lawsuit.

Now this, Madam President, is simply unacceptable in a democracy. Where you have public activity, governmental activity, the public is entitled to know. And when it is challenged, to have an affidavit taken, which on its face appears to be untrue, is totally unacceptable.

That is why, Madam President, when these three boards are challenged by the pending Mack amendment, we ought to put the imprimatur of the Senate on it very squarely in saying that these secrecy provisions have to be stricken from the act.

Beyond these expressed provisions, Madam President, I think that it is another indication of the kind of care that has to be undertaken in examining this 1,400-plus page bill to be sure that we know what is in it.

You would have thought, after the experience of this very bitter and painful litigation, that legislation would not be offered to make these kinds of boards a secret.

So I hope we will adopt this amendment—all of the indications are that the amendment will be adopted—and we will pursue the examination of the pending legislation, trying to understand all of its ramifications and, hopefully, we will yet be able to craft legislation which will meet what Senator BYRD and Senator HATFIELD have talked about, an overwhelming majority. That figure has been put generally at 70 Senators, so we will have the confidence of the American people in what we are to do.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Madam President, I yield myself such time as I may take.

The PRESIDING OFFICER. The Senator has 17 minutes.

Mr. ROTH. Madam President, I yield myself 5 minutes.

I rise in support of the pending amendment and I ask that my name be added as a cosponsor.

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

Mr. MCCONNELL. Mr. President, I want to thank Senator MACK and Senator COATS for offering this amendment today and applaud them for their efforts to ensure that the special commissions created by the Mitchell bill are accountable to the American people.

The Mitchell bill is trying to prescribe a new medication for the health care of all Americans, but we know there is one tried and true treatment for the expansion of bureaucracy and government—openness and accountability.

After all, if we left it to this administration, we would have a bunch of F-O-B's and F-O-H's lock themselves in a closed room, and impose their will on the American people.

That is what they tried to do in concocting their health care plan, and luckily a Federal judge is forcing accountability.

The health care task force, Ira Magaziner would have us believe, was all government officials, and that it cost only $100,000.

But the task force was filled with hundreds of people who had direct economic interests in the outcome of health care reform, and the tab to the American people for this exercise was somewhere between $4 and $20 million.

Now, Mr. Magaziner and Mrs. Clinton may find themselves before the Federal judge to tell the whole truth.

So, we want to avoid any repeat of the health care task force debacle. The American people have learned from the experience of Mrs. Clinton's task force: Her scheme was a plan for social engineering that would herd all Americans into a Government-controlled health care system—not an attractive option to the vast majority of Americans.

And that's why it is important that any new boards, councils, or agencies—and there are plenty of them in the Mitchell bill—be accountable to the American people.

One of the intents of Congress when it passed the Federal Advisory Committee Act back in the early 1970's was to ensure that committees established by Congress or the President are truly advisory in nature.

But, the National Health Benefits Board and the National Health Care Cost and Coverage Commission—two powerful committees established by the Mitchell bill—are exempt from FACA. These committees are empowered with determining what health services Americans can and cannot receive, with deciding what forms cost controls should take, and with ordering mandates to be imposed on employers. And, under the Mitchell bill, they will be able to operate behind closed doors and will be totally unaccountable to the public—because the Mitchell bill would exempt them from the sunshine laws.

If the heavy hand of Government regulation is going to fall hard on health care, then the regulators must operate within the bounds of the law. Compliance with the Federal Advisory Committee Act will ensure just that. And, anything less represents the arrogance of power.

The American people have learned that such discussions must be held in public, that the groups who devise reform plans must be accessible by, and accountable to, the American people.

Whether or not one agrees with the premise that we need a national health benefits board, or a national health care cost and coverage commission, we should all be able to agree that these committees must be accountable to the

public, to the very people whose health benefits and lives will be impacted by their decisions.

Mr. ROTH. Madam President, as the ranking Republican at the Senate Committee on Governmental Affairs which has jurisdiction over the Federal Advisory Committee Act, I would like to take this opportunity to explain why I believe this amendment is a good one to support, and critical for the public.

In 1972, the Federal Advisory Committee Act [FACA] was enacted in order to assure that Federal Commissions meet under the scrutiny of the public eye. FACA was enacted in order to build in assurances to the public that all federally appointed Commissions are accountable to the public.

There are several commissions in the pending legislation which are exempted from the requirements of public access and scrutiny assured by FACA. The two most prominent commissions to which I am referring are the National Health Benefits Board, and the National Health Care Cost Coverage Commission. The Benefits Board will be the sole entity responsible for crafting the final product—the final and only standard benefit package that all health insurance plans in this Nation will offer. The Cost and Coverage Commission will report on whether the employer mandate should be triggered or not.

The reports to be issued by both of these Commissions could have immense—I repeat—immense repercussions on the health care of every American in the Nation, and every employer in the country. In fact, if this bill is enacted in its current form, then, I believe, that these two commissions will be the most important and powerful commissions in the United States—yet—the legislation as drafted would exempt them from current law requirements imposed on virtually all Federal advisory committees—the Federal Advisory Committee Act.

As one of the coauthors of FACA in the Senate in the 92d Congress, I said then that, "There is a role for advisory committees to play in our Government. Advisory committees provide an opportunity for citizens to participate and become involved in our Government."

I think it is worth taking a moment to recall the situation that Congress faced in 1971. First, we did not know how many advisory committees there were—or how much they cost—and we could not find out the answer to either of these questions. There were educated guesses that ranged from 1,800 to over 3,000 commissions. No agency had the responsibility to keep track of the creation, operation, or termination of the advisory committees.

Second, there were no guarantees of public access to the deliberations of these advisory committees. Some met in closed sessions. And, there was no requirement that public notice be given of advisory committee meetings that were open to the public. Accordingly, many were concerned that special interests could exercise undue influence on Government decisions without scrutiny. So, we addressed these concerns in FACA.

One of the most important aspects of FACA is its sunshine requirement which sheds light on the activities of commissions. The importance of this requirement was exemplified during a hearing at the Committee on Governmental Affairs on December 3, 1987. At that time, the Governmental Affairs Committee heard testimony from Adm. James D. Watkins, U.S. Navy, ret., who was chairman of the first Presidential Commission on the Human Immunodeficiency Virus Epidemic. Ultimately, the Commission issued a report which received wide bipartisan acclaim for its findings. However, Admiral Watkins was invited to testify because there had been questions regarding the Commission's compliance with FACA prior to the completion of the report. The hearing brought attention to the need for commissions to comply with FACA. Without compliance, the integrity of the first report on AIDS would have been questioned by the public, and undermined the educational efforts made at that time.

Just to point out, that FACA is not an impediment for the functioning of a health care commission, I quote from Admiral Watkins' testimony at the hearing:

> I believe very strongly in the government in the sunshine. I feel that almost all advisory committees or commission meetings should be conducted in public. * * * I think nothing so far that I have seen in the Federal Advisory Committee Act has deterred us or slowed us down from getting this Commission underway, so I do not feel that it has been a major bar.

Clearly, we do not want to set the Commissions in the Clinton-Mitchell bills back to the situation we faced before the 1972 law. The Benefits Board, the Cost and Coverage Commission, and the other Commissions in the bill should be subject to FACA requirements for commissions. Again, Mr. President, I lend my full support for the pending amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. ROTH. I yield such time to the Senator from Florida as he needs.

The PRESIDING OFFICER. The Senator has approximately 9 minutes.

Mr. MACK. Madam President, I only rise, really, for a couple of matters. I ask unanimous consent that the following Senators be added to the amendment as original cosponsors: Senator PACKWOOD, Senator COVERDELL, Senator CRAIG, Senator D'AMATO, Senator NICKLES, Senator MCCONNELL, Senator LOTT, Senator HELMS, Senator HUTCHISON, Senator GREGG, Senator KEMPTHORNE, and Senator ROTH.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MACK. Madam President, at this time I yield the remainder of my time.

Mr. DOLE. Mr. President, there are many reasons why President Clinton's health care plan failed to win the support of the American people. And one of those reasons was the result of how the Clinton plan was created.

As we know, the Clinton plan was not written in the light of day. Rather, it was written in the dark. It was pieced together in the back room of the White House by Mrs. Clinton, Ira Magaziner, and 500 anonymous so-called experts.

The secrecy surrounding the writing of the Clinton plan was not only poor policy, it may well have been illegal. The process may have been a violation of the Federal Advisory Committee Act, and the Clinton administration is now involved in a lawsuit that was filed to find out exactly who, and what, was involved in crafting the bill.

I do not know how the lawsuit will turn out, but I do know that any legislation as important and far-reaching as health care reform legislation cannot succeed if it does not have the trust of the American public.

And plain and simple, the American people did not trust the Clinton plan. They did not trust the secrecy in which it was written. They did not trust the principle that "government knows best." And they did not trust the endless maze of new government boards and bureaucracies that would have been created.

Unfortunately, Senator MITCHELL's legislation is also riddled with provisions creating more bureaucracy, more government control, and more boards and commissions.

And as Republicans carefully read the bill to fully understand the authority and power of these commissions, we discovered that at least 3 of the 55 bureaucracies it creates—the National Health Benefits Board, the National Health Care Cost and Coverage Commission, and the Agency for Health Care Policy and Research, were all exempted from the Government in the Sunshine Act.

Under this act, Federal boards, panels, and committees must, among other things: meet in public, publish notice of their meetings, publish the agenda for their meetings, permit the public to attend and testify at the meetings, and keep detailed minutes of the meetings, and make them available to the public.

Let me take a moment to describe the responsibilities of the commissions and boards that the Mitchell bill would allow to meet in secret.

The Cost and Coverage Commission is charged with determining if America

and the 50 States have achieved 95 percent health insurance coverage. If the Commission determined that 95 percent coverage has not been achieved, it has the authority to draft legislation to achieve 100 percent coverage.

That legislation might include price controls, it might include mandates, it might include taxes, or it could include anything else. We have no way of knowing. And we will have no way of knowing, because under Senator MITCHELL's bill, all decisions can be made in secret—without one word of input from the American public.

And then there's the health benefits board. No doubt about it, this will be a very, very, powerful board. It will have the authority to draft legislation and regulations regarding what benefits are to be included in a standard benefits package.

Included in that authority, is the power to determine what benefits are and are not "medically appropriate and necessary."

I guess I'm a bit confused. I thought doctors and nurses went to professional schools to be able to determine what was medically appropriate and necessary.

But now if the President appoints you to the Health Benefits Board, you can skip to the head of the class. You have been instantly awarded the qualifications to determine what is medically appropriate and necessary.

Let me cut through the Bureaucratese and say that what all this means is that this board can—as a similar board in Great Britain already has—determine that if you're 55 years of age or older, you are no longer eligible to receive kidney dialysis through the Government program. You can use your own money if you have it. But if you do not, you will not receive the lifesaving treatment.

Needless to say, Mr. President, these boards and commission will be making decisions that will affect the financial health of America, and the physical health of our citizens.

There is no reason why these boards should be granted the power to meet in secrecy. Indeed, there is every reason why they must meet in public. It is simply unjustifiable to exclude 260 million Americans from taking part in a decisionmaking process that will have so massive an effect on their lives. And the Mack-Coats amendment will ensure that these boards comply with all provisions of the Federal Advisory Committee Act.

I congratulate Senator MACK and Senator COATS for the leadership on this issue.

And I conclude by saying that this amendment—like the Nickles amendment which was unanimously passed yesterday—are precisely the reason why we need to take our time to thoroughly examine the bill.

The fact is that there are many, many, many more troubling provisions in this 1,400-page bill. Some on the other side of the aisle have sought to justify quick consideration of the Mitchell bill, by holding up bills of similar length that prior Congresses have passed in short time periods.

I believe, however, our duty to the American people requires that we do just as Republicans have been doing: That we take out time. That we read every page of the bill. And that we do all we can to ensure that other wacky provisions do not slip through—which is just what will happen if we are denied the opportunity to carefully study this massive bill.

The PRESIDING OFFICER. All time is yielded back on the amendment.

The question occurs on agreeing to amendment No. 2568 offered by the Senator from Florida [Mr. MACK]. The yeas and nays have been ordered.

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

The PRESIDING OFFICER. The clerk will call the roll to establish if a quorum is present.

The legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 2568 offered by the Senator from Florida [Mr. MACK]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—100

Akaka	Exon	Lugar
Baucus	Faircloth	Mack
Bennett	Feingold	Mathews
Biden	Feinstein	McCain
Bingaman	Ford	McConnell
Bond	Glenn	Metzenbaum
Boren	Gorton	Mikulski
Boxer	Graham	Mitchell
Bradley	Gramm	Moseley-Braun
Breax	Grassley	Moynihan
Brown	Gregg	Murkowski
Bryan	Harkin	Murray
Bumpers	Hatch	Nickles
Burns	Hatfield	Nunn
Byrd	Heflin	Packwood
Campbell	Helms	Pell
Chafee	Hollings	Pressler
Coats	Hutchison	Pryor
Cochran	Inouye	Reid
Cohen	Jeffords	Riegle
Conrad	Johnston	Robb
Coverdell	Kassebaum	Rockefeller
Craig	Kempthorne	Roth
D'Amato	Kennedy	Sarbanes
Danforth	Kerrey	Sasser
Daschle	Kerry	Shelby
DeConcini	Kohl	Simon
Dodd	Lautenberg	Simpson
Dole	Leahy	Smith
Domenici	Levin	Specter
Dorgan	Lieberman	Stevens
Durenberger	Lott	Thurmond
Wallop	Warner	Wellstone
		Wofford

So the amendment (No. 2568) was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Madam President, may I take yet another opportunity to note that we are progressing. We have just had a unanimous vote in the body. Once again, we in a spirit of comity, cogency, and unity prevailed. It ought not to be missed. It should be celebrated, emulated, and continued.

As the majority leader will be addressing us briefly, I respectfully suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, pursuant to the previous order, I shortly intend to seek recognition to offer an amendment. I have discussed it with the managers. The amendment has been provided to our colleagues, I believe, last evening or earlier today.

I am advised that the amendment will not require a recorded vote, that it will be accepted. Therefore, there will be no further rollcall votes this evening. We will take up and pass this amendment by voice vote, unless someone now requests a recorded vote. Then, we will proceed to the amendment that I believe will be offered by Senator PACKWOOD or one of his colleagues.

Mr. PACKWOOD. I believe, Mr. President, what the chairman and I worked out earlier is that we were planning to go after the Senator from Maine, and probably start that in the morning. Senator MOYNIHAN has an amendment on residents and interns and numbers. Then we come back to the Republican side again. I did not think we were planning to go tonight. We were hoping when we were finished with the amendment of the Senator from Maine that we would be finished.

Mr. MITCHELL. That is agreeable with me. I was under the impression that the amendment was going to be offered by Senator PACKWOOD as the next Republican amendment.

Mr. PACKWOOD. I think we will have it ready tonight, but we will offer it in the morning.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. I now suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, will the Senator withhold the request for a unanimous-consent request to put something in the RECORD?

Mr. MITCHELL. Certainly.

THE SENIOR SENATOR FROM ALASKA, TED STEVENS

Mr. COCHRAN. Mr. President, the Anchorage Daily News has published a series of articles on our good friend from Alaska, the senior Senator.

The first article was entitled "Senior Senator, Big Voice for Alaska." It has a fine, flattering photograph of TED STEVENS on the front page.

I hope that Senators will have an opportunity to read the entire series. The articles talk about the life and career of our good friend, the senior Senator from Alaska, TED STEVENS. There are seven in all, beginning on Sunday, August 7, and continuing through August 13.

They confirm for all of us what we all have known, and that is that TED STEVENS is a very effective, influential Member of the U.S. Senate and makes sure that the interests of Alaska are always taken into account whenever legislation is pending here.

All of us who know TED STEVENS respect him. Most of us who know him, including this Senator, have a great feeling of affection for him and consider him a valuable friend.

I personally congratulate him on the flattering content of these articles and invite the attention of all Senators to the series.

These articles add to our knowledge of his early years and confirm that our respect and affection for him are well placed.

Senator STEVENS is one of the most influential Members of this body, and he has been for many years. His tireless and effective efforts to insure that the interests of Alaska are taken into account by the Congress are well known by all of us in the Senate, and these articles remind us of some of the most important legislative battles he has won for his State over the years.

I urge all Senators to read this series on our good friend and colleague, knowing that when you do you will understand more fully why he is so deeply appreciated by the citizens of his State.

Mr. President, I ask unanimous consent that all of the articles in the series entitled "Senior Senator" be printed in the RECORD.

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

[From the Anchorage Daily News, Aug. 7, 1994]

BIG VOICE FOR ALASKA

(By David Whitney)

(The milestone in Sen. Ted Stevens' career this season is his 25th year in the U.S. Senate, but his impact on Alaska extends much further. From his earliest days of public service, he's demonstrated a remarkably single-minded vision: Get more for Alaska. Though sometimes criticized for pork barrel politics, for a famous temper and for his atypical stands on traditional party issues, he has more often been celebrated as an effective champion for his vision of the state. Repeatedly, he emerges an overwhelming victor at election time. By nearly any yardstick, Ted Stevens belongs in the front rank of Alaska statesmen. From his little-known private history through his role shaping state history, this is the story of Alaska's senior senator.)

WASHINGTON.—When Ted Stevens rose earlier this year to oppose a balanced-budget amendment on the floor of the U.S. Senate, he was also standing against the main political currents of his party and his state.

The Alaska Legislature has supported such an amendment. So have Rep. Don Young and Sen. Frank Murkowski, Stevens' partners in the state's all-Republican congressional delegation. So did virtually all other Republicans in Washington.

But not Stevens. Stevens was doing the same thing he has done for more than two decades in Washington: ignoring party pressure and political currents to fight anything that might threaten the flow of federal dollars to Alaska.

It's a drive that dates back to the 1950's, when the battle for Alaska statehood was being fought and Stevens was a junior bureaucrat in the U.S. Interior Department. There, he helped write the federal law that let Alaska become a state, and he helped overcome President Dwight D. Eisenhower's fears that Alaska was too large in size and too small in population to sustain itself as a state.

Nearly 40 years later, Stevens' 70th birthday is behind him and his body is aging, but the fight hasn't left him.

"We have worked and worked and worked to get out from under the yoke of Uncle Sam and we cannot do it," Stevens said during the debate on the balanced-budget amendment. "We are economically dependent on the federal government."

Only three other Republicans joined Democrats in Congress to kill the amendment.

"How will I ever get a waiver of the balanced budget amendment to try and get special money to meet special problems in Alaska?" Stevens asked plaintively.

In the Senate, seniority is power and only seven senators have served longer than Stevens. During 25 years in Washington, his clout has shaped legislation on a series of defining Alaska issues, from North Slope oil to Native land claims to preservation-vs.-development battles.

That clout has also brought home everything from defense installations and logging subsidies to tax favors for Native corporations—billions of dollars in federal largesse.

This has made him a favorite target of congressional watchdogs, such as Citizens Against Government Waste. The group regularly criticizes him in its annual "pig book" for slipping Alaska projects into the federal budget.

"He certainly stands high in the pantheon of pork," said the group's spokesman, Sean Paige.

Stevens bristles at these criticisms.

"If I leave in what the president has requested, it's not controversial," Stevens said. "But if I take that money out and put another item, of higher priority for Alaskans, in, then it's very controversial. Everyone says Stevens is increasing the deficit. It's not true."

THE STATE BUILDER

When Stevens joined the Senate in 1968, the State of Alaska was only a decade old. Over the next few years, his hand was in a stack of major bills that determined the final shape of the 49th member of the union:

The 1971 Alaska Native Claims Settlement Act, which created profit-making Native corporations and seeded them with 44 million acres and nearly $1 billion in cash. Stevens fought for a provision requiring about half the money to come from state funds.

The 1973 Trans-Alaska Pipeline Authorization Act, which permitted the development of Prudhoe Bay, the state's cash cow for nearly two decades. Stevens worked on a key amendment to bar court review of environmental questions about the project, but it took the tie-breaking vote of Vice President Spiro Agnew to get the measure out of the Senate. Stevens also voted for an amendment restricting oil exports. The amendment was considered crucial to win passage of the act, but it since has come to be viewed in Alaska as an unfair abridgement of the state's rights.

The 1976 Magnuson Fishery Conservation and Management Act, which gave the state a majority voice in managing the $1 billion annual fishery in federal waters off the Alaska coast. Stevens was a leading architect of the bill and lobbied a reluctant President Ford to sign it.

The 1980 Alaska National Interest Lands Conservation Act, which set aside more than 104 million acres of federal lands as national parks and refuges. Though Stevens voted against the final measure, he tried to negotiate the smallest possible set-aside and he obtained an annual $40 million federal subsidy for logging in the Tongass National Forest.

"Ted Stevens has been instrumental in shaping the state with his seat in the Senate," said Claus-M. Naske, a history professor at the University of Alaska Fairbanks and author of several books on Alaska.

In many of the battles to pass major acts affecting Alaska, Stevens had to fight the state's business establishment, ordinarily a Republican lawmaker's best friend.

When he helped work out a compromise on the Native claims bill with Sen. Mike Gravel—it was one of the few times they worked together—the Alaska business community screamed.

Many business leaders didn't think Natives should get any land or property. Stevens argued that any legislation that would take lands away from the federal government and give them to Alaskans was good for the state.

But what was most galling back home was that Stevens endorsed a compromise giving Native corporations nearly $1 billion, half of which was to come out of state royalties from Prudhoe Bay.

The Anchorage Times, then the state's leading newspaper, said Alaskans should not have to pay a dime for the settlement and that any money for Natives should come out of federal coffers.

Stevens didn't blink.

He believed the cash settlement was vital if the Native corporations were to succeed. Besides, he said, the money would stimulate the state's economy.

"Given the circumstances at the time, Stevens behaved admirably and maybe even heroically," said Don Mitchell, an Anchorage lawyer who has represented the Alaska Federation of Natives.

Later, as construction of the trans-Alaska pipeline geared up in the early 1970s, Stevens

was hung in effigy in downtown Fairbanks for suggesting that pipeline contractors refurbish Army property at Fort Wainwright to house their offices and equipment rather than build new facilities in town.

But Stevens prevailed. And, when the pipeline construction crews left, the Army took over the modernized facilities and they became a major draw for the 6th Infantry Division (Light), which Stevens had helped steer to the state.

A LEGISLATIVE TACTICIAN

Stevens' long tenure in the Senate has earned him considerable clout.

He is the leading Republican on defense spending and, when Republicans were in charge of the Senate from 1980 to 1986, Stevens helped engineer President Reagan's huge military buildup, which added billions of dollars to the national debt.

"I've certainly always thought of Stevens as quite strong and solid on defense matters," said Baker Spring, senior defense analyst for the conservative Heritage Foundation.

But Stevens also has been a potent force on other national issues, some of which put him at odds with more conservative members of his party.

He is a strong supporter of federal funding for the Corporation for Public Broadcasting, despite Republican complaints that its news programming has a liberal slant.

Stevens is a leading advocate of women's rights, including the right to abortion. He also was an early supporter of increased federal research into the AIDS virus.

Stevens' position on these issues has contributed to an impression that he is a social liberal. But, overall, his record is that of a Republican moderate.

For example, he voted against a bill to let teen-agers get abortions without notifying their parents. And last year Stevens voted against allowing people with the AIDS virus to immigrate to the United States.

On foreign policy, his views are in line with those of Texas Republican Phil Gramm, one of the Senate's most conservative members.

In action on the Senate floor, Stevens uses parliamentary procedures and rules to his advantage. He is not the Senate's most gifted orator, but he is an effective advocate because few have his institutional memory or detailed grasp of the issues.

Stevens works his way most effectively by tagging add-ons to major bills. The bills are usually so long and complex that Stevens' special Alaska provisions are difficult to spot and harder still to decipher.

One example is a huge financial break he arranged for Alaska Native corporations in the mid-1980s. Despite the vast sums of money conferred by the 1971 Native Claims Settlement Act, some of the corporations were on the brink of bankruptcy 15 years later. In 1986, when Congress was working on a sweeping tax-reform bill, Stevens came to their aid again.

Since 1984, federal tax law had allowed unprofitable corporations to "sell" their net operating losses (or NOLs) to corporations that were making money. The money-losing corporation would get a cash infusion to erase some of its red ink, while the profitable corporation would get a reduction in its tax bill. But now Congress was about to end the transactions.

When Stevens learned that the depressed steel industry was trying to get an exemption from the cut-off, he quietly attached a provision to the tax-reform bill giving the same break to Alaska Native corporations. He argued that the Natives had suffered huge losses because congressional actions had delayed the conveyance of all 44 million acres promised by the 1971 settlement act.

The steel industry didn't get its exemption, but the Natives did.

Stevens estimated at the time that the Native exemption would cost federal taxpayers maybe $50 million. But the volume of transactions quickly swamped all projections, and Congress shut down the exemption two years later.

Then-House Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., said in April 1988 that the huge volume of transactions was fueled by profitable corporations approaching Natives with "schemes" to create paper losses that the money-making firms could then buy.

"If Congress does not move to restrict this unintended tax avoidance, it may cost $200 million or more in additional lost revenue that very profitable companies would otherwise pay in federal taxes," Rostenkowski said.

Even Rostenkowski apparently underestimated the money at stake.

Steve Colt, an economist at the Institute of Social and Economic Research at the University of Alaska in Anchorage, said the Natives had sold more than $3 billion in operating losses by the time the exemption was terminated in 1988. He estimated the tax loss to the federal government exceeded $1 billion.

The final cost could turn out to be lower because the Internal Revenue Service is intensely auditing the sales. Stevens has met with Treasury Department officials to promote the best resolutions he can for the Natives.

Stevens said he considered the provision social legislation that helped restore the economic vitality of several Native corporations while pumping hundreds of millions of federal dollars into the state.

"It deserved to be in Alaska," he said.

According to Wally Powers, vice president of finance for Nome-based Bering Strait Native Corp., which sold $35 million of its losses still under IRS audit, the transactions could be a lifesaver.

"We were officially in bankruptcy when the NOLs went through," Powers said. "They give us a second chance to achieve the promise of the Native Claims Settlement Act."

A FIERY TEMPER

Stevens has a reputation as one of the Senate's most incendiary members, and he's proud of it.

He believes his angry outbursts are one of his most effective tools.

"I don't lose my temper," he quips. "I always know where it is."

Shortly after Stevens was appointed to the Senate in 1966, the Nixon White House got a taste of that temper.

The Labor Department wanted to fill a position in Alaska with a Californian. Stevens thought an Alaskan should get the job, but had recently refused to support the White House on one of its issues—he doesn't remember just which one.

A Nixon bureaucrat named Fred Webber called Stevens' office and asked why the administration should bend over backward for Stevens if he wouldn't help the president.

Stevens still remembers the showdown with Webber. So does Ron Birch, who was Stevens' top aide at the time and witnessed the blowup.

Stevens summoned Webber to his office and politely inquired about pending legislation important to the Labor Department. Webber courteously ticked off a list of bills.

"You go back and tell your boss that I am putting a hold on every one of those bills," Birch recalls Stevens telling Webber. Because much of the Senate's routine business depends on unanimous consent, even a rookie like Stevens then was, can keep legislation off the floor. It is an especially potent tool toward the end of a congressional session when a last-minute "hold" can effectively spike a bill.

"Yeah, I got a little exercised," Stevens remembers. "I got up, opened my door, grabbed him by the seat of his pants and his collar and threw him out on the god....d floor."

According to Birch, Stevens was willing to risk offending the White House to make clear that he could not be bought.

"He said that the first time you sell your vote, you're a whore," Birch said. "And once you're marked as a whore, you are marked forever."

Stevens instructed Birch that he would take no more calls from the White House, even from Nixon, until there was an apology for trying to pressure a vote out of him. It was delivered by a delegation from the White House the next day, Birch said.

Neither Webber nor people in the White House delegation could be located for comment.

"I've heard many stories about Ted Stevens' temper," said Bill Van Ness, a former congressional lawyer and now the senior partner in a Washington, D.C., law firm that lobbies on Alaska issues.

"But I've always believed that he is in control, that he always knows what he is doing," Van Ness said. "And I think it has had an intimidating effect. There aren't many in the Congress who will take him on, head to head."

Stevens' prickly independence may have worked well for Alaska, bringing billions of dollars in federal spending, but it has not necessarily served him well personally.

In 1984, Stevens narrowly lost a race against Kansas Sen. Bob Dole for Republican majority leader. The majority leader sets the agenda for the entire Senate and usually serves as one of his party's leading policymakers.

Stevens believed he had enough votes to win the job. He had worked his way up to the position by serving as the chairman of the Republican Senatorial Campaign Committee, which raises money to elect Republicans to the chamber, and later as Republican whip—the party's second-ranking leadership post.

The defeat cost Stevens his job as whip. Among the perks were a suite of offices in the Capitol and a chauffeured car.

Press accounts at the time attributed Stevens' loss to the desire among other senators for the committee chairmanships that would be opened up by Dole's elevation.

But press reports also cited Stevens' fabled temper. He said in a recent interview that he believes he was hurt by the fact that he had angered so many of his colleagues over the years.

"I think I didn't get the votes I should have from some people because I had offended them in some connection or other, but it was something I had to do to get bills passed for Alaska," Stevens said.

Despite his long public career, Stevens' private life has been marked by family hardship, tragedy and regrets.

Stevens, born in Indianapolis, was the third of four children in his family. His parents divorced in 1929 just as the Great Depression was beginning. He lived with his grandparents until he was a teen-ager, helping support a blind father and a mentally retarded cousin by hawking newspapers on the

street and later by working at a soda fountain.

Stevens flew Army cargo planes in China during World War II. After the war, he earned a law degree at Harvard University, then worked for law firms in Washington, D.C., and Fairbanks. But he abandoned the lure of big money to enter public service and then politics.

Roger Ernst, who worked with Stevens at the Interior Department during the Eisenhower administration, recalled Stevens working even on Sundays. It was a habit he kept up when he entered the Senate.

He came to regret those long hours away from his family.

On Dec. 4, 1978, a Learjet carrying the Stevenses and several others hit gusty crosswinds and crashed while attempting to land at Anchorage. The senator was one of two survivors. His wife was not.

In the months of grieving that followed, Stevens seemed to blame Alaska's other senator, Democrat Mike Gravel, for Ann's death. At the time of the crash, the Stevenses were en route to a fund-raiser for a lands act lobbying group. Stevens said at a congressional hearing that the trip was necessary only because Gravel had blocked a compromise on the Senate floor that would have let the lands act pass two months earlier.

It took months for Stevens to work through Ann's death. He read a book by Arthur Freese called "Help for Your Grief." Though the book is now out of print, Stevens sends a photocopy of it to friends when they have a death in the family, inscribed with remarks about how it got him through Ann's death.

Two years later, Stevens married Catherine Bittner Chandler. In 1981, when he was 57, Catherine gave birth to his sixth child, Lily, upon whom he dotes. He reserves time to go to movies with Lily now that she is a young teen-ager, and he drives her and her friends to weekend soccer games. A corner of Stevens' office is filled with Lily's artwork. When Lily was younger, Stevens would hold hot-dog and ice-cream parties for her in a Senate dining room.

By 1980, his nemesis, Gravel, had been defeated and the major pieces of law affecting Alaska had been enacted. Stevens began what amounted to a second life. It was comfortable until financial problems beset his new family.

An untimely investment in a crab boat in 1979, named the Lady Ann after his first wife, saddled him with more debt than his Senate salary could absorb, and Catherine's investment in an Arizona cattle ranch drew an Internal Revenue Service tax claim in the mid-1980s.

The Stevenses settled their debts by selling their Maryland home in December 1986 and moving into a rented house in the District of Columbia.

Stevens' financial situation didn't completely turn around for another three years.

C.W. Snedden, the longtime publisher of the Fairbanks Daily News-Miner who had helped give Stevens his political start three decades earlier, died in August 1989. Snedden bequeathed Stevens an expensive motor yacht. Stevens immediately sold it to pay off his bills and buy the house he and Catherine were renting.

Stevens' failure to accumulate much wealth due to his public service has at times left him sounding somewhat bitter.

In 1988, a year before the bequest from Snedden and when his financial situation seemed bleak, Stevens was beginning to think about his 1990 re-election campaign.

He said in an interview that he could have made millions of dollars as a lawyer and that voters needed to understand the personal sacrifice he had made for a life of public service. He said he viewed the 1990 election as a turning point in his life and for the state.

Stevens' remarks drew letters to the editor attacking him for arrogance, but they didn't dent him at the polls. In the 1990 Republican primary, his conservative rival, Bob Bird, ridiculed Stevens as "his highness"—and got just 30 percent of the vote.

At 70, Stevens' hair is graying and, despite a passion for exercise and healthy foods, he has had serious medical problems—including prostate cancer two years ago and back problems requiring surgery in February. But Stevens has already said he will run again in 1996.

Anything can happen in an election, but at least for now Stevens is looked upon even by many Democrats as the workhorse who can get things done for Alaska.

In May 1993, a group of Alaska Democrats fanned out over Washington. They were trying to figure out if they had any sway with the Clinton administration, coming as they did from a state with a Republican-turned-independent governor and an all-Republican congressional delegation.

Just months before, Stevens had predicted that Clinton's policies would bring economic ruin to Alaska. Now the Democrats courted him as if he were the only person who could hold their own president at bay.

"I remember being asked once what one thing we could do that would be best for the state," said Anchorage lawyer Tony Smith, who ran against Sen. Frank Murkowski in 1992. "I said that the best thing we could do would be to take $20 million out of the state's permanent fund to find a fountain of youth to keep Stevens alive and in office."

Smith—who is now running for Republican Don Young's seat in Congress—says he still stands by that statement.

[From the Anchorage Daily News, Aug. 8, 1994]

STEVENS' LIFE WASN'T EASY GROWING UP IN THE DEPRESSION WITH A DIVIDED FAMILY

(By David Whitney)

WASHINGTON.—A wooden surfboard stands amid the plaques and letters of appreciation in Ted Stevens' office in the marble-walled Hart Senate Office Building.

Polished to a gleam and parked in the corner nearest Stevens' desk, the board is a memento of a rare mellow period in the life of a politician not known for mellowness.

Stevens paid $40 for it when he was a teen-ager in Manhattan Beach, Calif. He lived there with an aunt and uncle who took him in when he was 15.

"In 1940, I bought a surfboard and a gold 1931 Pontiac convertible," he said. "The surfboard cost almost as much as my car."

With the board in the back of his car, Stevens and high school friend Russell Green would head for San Onofre to ride the waves.

"We were beach bums," Stevens said.

Theodore Fulton Stevens was born Nov. 18, 1923, in a small cottage behind his grandparents' home in Indianapolis. His grandfather built the little house after Stevens' father, George, married Gertrude Chancellor.

The couple divorced when Stevens, the third of George and Gertrude's four children, was 6, and the 1929 stock market crash was plunging the nation into the Great Depression.

At the time of their divorce, Stevens' parents lived in Chicago. The Depression cost Stevens' father his job, and the children went back to Indianapolis to live with their grandparents.

They were soon followed by Stevens' father, an accountant who developed severe eye problems and went blind for several years.

Stevens' mother landed in California and, as she could afford it, she moved Stevens' siblings out to be with her. Stevens said he stayed behind to help care for his blind father and a mentally retarded cousin who also lived with his grandparents.

Stevens helped raise money for the household as a newsboy on the streets of Indianapolis.

"I remember selling lots of newspapers on the day of the Lindbergh kidnapping," Stevens said. Charles Lindbergh Jr., the son of the famous aviator, was kidnapped on March 1, 1932. Stevens was 8 years old.

In 1934, Stevens' grandfather, the only one in the house with a job, tumbled down a flight of stairs and punctured a lung. He contracted pneumonia and died.

Stevens stayed in the house until 1938, when his grandmother could no longer afford the bills. Stevens, then 15, moved with his retarded cousin, Patricia Acker, to Manhattan Beach to live with her mother, Gladys Swindells.

Before and after classes at Redondo Union High School, he still had to work. But there also was time for his growing friendship with Russell Green, son of the president of Signal Gas and Oil Co.

For three years, Green and Stevens partied, surfed and studied together. They're still close friends.

Green recalled cutting classes with Stevens to hear Glenn Miller's orchestra, Miller was making a movie at the time and also doing nightly radio broadcasts from a nearby town.

He said they approached Miller and told him they had cut class to see him. "Miller said, 'Just tell your teacher you were up seeing Glenn Miller and they will let you out,'" Green said.

"Ted has a lot of fun in him and a great sense of humor," Green said. "But he was serious enough to get absolutely top grades."

Except when the now-famous Stevens temper surfaced in an English class, Green remembered.

"One of our classmates was an A student but he was always talking," Green said. "So the teacher gave the student a B. Ted got into an argument with the teacher, saying that the grade should be for the work he's done and not his deportment. The teacher got so mad at Stevens that she knocked his grade down to a B, too."

OFF TO WAR

After graduating from high school in 1942, Stevens attended classes at Oregon State University for a semester and then, with World War II raging, tried to enlist in the Navy Air Corps.

He flunked the vision exam.

"I had strained my eyes considerably in an engineering course I was in," Stevens said. Facing the prospect of being drafted, he moved to Los Angeles and took eye exercises six days a week.

There, Stevens met a former military officer and member of the Selective Service board who helped arrange another test for flight training.

This time, Stevens passed. The Army sent him off to study at Montana State University. He said he scored at the top of an aptitude test and immediately was transferred to preflight training in Santa Ana, Calif.

"We went right down to join a group that already had started in preflight," he said. "We got our wings in the early part of 1944. The other group at Montana State got its wings just in time to be discharged. They never went overseas."

From Santa Ana, Stevens went to Bergstrom Field in Texas, where he trained to fly P-38s. Because of an incident during graduation, Stevens never got the chance to fly the fighters in combat.

"Someone in the class booed the godd--n colonel who gave the speech to our graduating class," said Stevens, who recalls that the colonel was supposedly the son of an Army big shot. "Suddenly we were copilots in a troop carrier squad."

Stevens was dispatched to China to fly for the 14th Army Air Corps Transport Section, which supported the Flying Tigers.

Leroy Parramore, who flew with Stevens in China, said they piloted C-46 and C-47 cargo planes, often without escort, throughout the China theater to resupply mostly Chinese units fighting the Japanese.

"We transported everything from bombs to Chinese troops to gasoline," said Parramore, a retired Internal Revenue Service agent in Texas.

Parramore said their worst enemy was the weather.

"I remember one occasion when we were flying and we were running out of gas," Parramore said. "Ted was in one C-46 and I was in another. We hit a strong headwind and we started looking for an alternate landing field. I landed first. And when Ted finally landed, he had run out of gas on the approach."

"If I had anyone I would have trusted my life to, it would have been Ted," Parramore said.

When Stevens left the Army Air Corps in March 1946, he had collected a Distinguished Flying Cross for flying behind enemy lines, an Air Medal and a Yun Hai Medal, awarded by the Chinese Nationalist Government.

After the war, Stevens returned to California, where he received a bachelor's degree in political science at UCLA in 1947.

By then, Stevens had decided to go to law school. He applied at Stanford University and the University of Michigan.

But, when he told Green's father he planned to go to Stanford, he said he was told to "look East."

Stevens did, graduating from Harvard in 1950. He was able to finance part of the cost with money from the GI Bill because of his military service. But, he said, he also had to sell his blood, work several jobs—including one as a Boston bartender—and borrow money from an uncle.

Alaska Supreme Court Justice Jay Rabinowitz praised Stevens' scholarship at Harvard. Rabinowitz said the Alaska Supreme Court issued an opinion recently that cited an article on admiralty law Stevens wrote for the Harvard Law Review 45 years earlier.

After graduation, Stevens headed off to a Washington, D.C., job that put him on the road to Alaska.

[From the Anchorage Daily News, Aug. 9, 1994]

THE ROAD NORTH—NEEDING WORK, STEVENS BORROWS $600, ANSWERS CALL TO ALASKA

(By David Whitney)

WASHINGTON.—For Ted Stevens, the long, unexpected road to Alaska began in the Washington, D.C., law office of Mike "Northcut" Ely.

Ely had been an assistant secretary in the Interior Department during the Hoover administration. Twenty years later, he had a high-profile law firm specializing in natural-resources issues. He recruited Stevens out of Harvard Law School in 1950.

"He was a vigorous chap, highly effective," Ely, now 90, said in a telephone interview from Redlands, Calif., where he still maintains a office, "He was very personable, with a good sense of humor."

Stevens was assigned to handle the legal affairs of Emil Usibelli, an Ely client in Alaska who was trying to sell Healy coal to the military.

Stevens was interested in natural-resources law, but he wanted to pursue that interest in government, not private practice.

So he volunteered for the 1952 presidential campaign of Dwight D. Eisenhower, the World War II hero who would become the first Republican to occupy the White House since the defeat of Herbert Hoover in 1932. Stevens hoped an Eisenhower victory would mean a federal job for him.

Stevens said in an interview that campaign volunteers would meet at a Washington, D.C., hotel to write position papers. Stevens was assigned Western water law and the problems of Western lands.

Eisenhower's election in November 1952 looked like perfect timing for Stevens.

"I had done several papers for them. I had met several people by the time Eisenhower won. They said, "We want you to come over to Interior.'"

Eight months earlier, Stevens had married the former Ann Mary Cherrington, the adopted daughter of the chancellor of the University of Denver. A graduate of Reed College in Portland, Ore., Ann was a Democrat who worked for the State Department in the Truman administration.

Stevens told Ely he was quitting to look for work in the Eisenhower administration.

But the job didn't come through, and suddenly Stevens was out of work, with a new wife and no place to go. About this time, Stevens got a call from Charles Clasby inviting him to join his law firm in Fairbanks. Stevens knew Clasby because Clasby was the Alaska lawyer for Emil Usibelli, the coal miner Stevens had represented in Washington.

ALASKA CALLS

"Ann and I were both from the West," Stevens said. "We liked Clasby and Usibelli. We had done some things together when they were down here. And Clasby was in a hard spot. He had told me he had lost one of his people."

Ely said he was sad to see Stevens go. But he recalls Stevens offering another reason for leaving Washington.

"He said he'd like to settle in the West and get into politics," Ely said. "I told him he should stay in law."

Stevens recalls saying no such thing. According to Stevens, the job in Fairbanks came along at a time when he needed work and he had no idea that he would eventually get into politics.

The Stevenses packed their bags and began the long drive north in the dead of winter, traveling on $600 borrowed from Clasby. They hit Fairbanks in February 1953.

Stevens said he kids Gov. Wally Hickel about the loan from Clasby.

"He likes to say that he came to Alaska with 37 cents in his pocket," Stevens said of Hickel. "I came $600 in debt."

Stevens quickly cultivated the city's Republican establishment. One of his new friends was C.W. "Bill" Snedden, who had recently bought the Fairbanks Daily News-Miner. Helen Snedden, Bill's widow, said her husband and Stevens were "like father and son."

"The only problem Ted had was that he had a temper," Helen Snedden said. "My husband helped and guided him along the way. He kind of steadied him, like you would do with your children. My husband taught him the art of diplomacy."

Helen Snedden became especially close to Ann.

"I don't think you could have found a better person," she said. "She was very smart, very caring. She fit in very easily. The children came along, year after year. It was hard. It was a struggle. But she made a home and she didn't complain."

Stevens lasted six months with Clasby. By September, Fairbanks U.S. Attorney Bob McNealy, a Democrat, had resigned and, Stevens said, U.S. District Judge Harry Pratt asked him if he wanted the job.

"I said, 'Sure, I'd like to do that,'" Stevens said. "Clasby said 'It's not going to pay you as much money, but, if you want to do it, that's your business.' He was very p----d that I decided to go."

Stevens was confirmed for the position by the Senate on March 30, 1954.

"He was a very active D.A.," said Mike Stepovich, a Fairbanks lawyer at the time who a few years later would become territorial governor. "He was a prosecutor all the way through."

Olga Steiger, a former court clerk in Fairbanks, said Stevens' explosive temper often was fixed on Warren A. Taylor, a criminal defense lawyer.

"They didn't get along," she said. "Ted would get red in the face, blow up and stalk out of the courtroom."

GUN TOTIN' D.A.

Jay Rabinowitz, now an Alaska Supreme Court Justice, arrived in Fairbanks not long after Stevens left. He recalls tales of Stevens packing pistols and accompanying U.S. marshals on raids.

In one particular vice raid, Rabinowitz recalled, "U.S. marshals went in with Tommy-guns and Ted led the charge, smoking a stogie and with six guns on his hips."

"It makes me sound like Eliott Ness," Stevens said. He remembers only one such incident. It was in Big Delta, about 75 miles southwest of Fairbanks.

"We decided we'd take a combined force down there because of information we'd received about a lot of different violations of federal and territorial law. There was a prostitution ring, and drugs and violations of liquor laws.

"They wanted to make sure everything was done right, that the evidence would be admissible, the arrests would be legal, so they asked me if I wanted to go along. I said, yeah.

"So one of them suggested I ought to take a gun," he said. "So he checked me out a gun. It was a holster with a gun. It wasn't two guns. I never had two guns. I never walked around town with it.

"But someone did see it," he said. "Someone saw us coming back in or going out of the federal building that day and said, 'Jesus Christ, there's the damn district attorney carrying a gun.'"

The report spread "up and down Fourth Avenue in every bar."

"And, to this day, kids come in and tell me their dads have told them about me and they think a lot about me when they see stories about Eliott Ness and that it must have been the same," he said.

Stevens' most famous trial came at the end of his career as federal prosecutor. The

case managed to link tax evasion to the cause of Alaska statehood—and Stevens lost.

Jack Marler, a former Internal Revenue Service agent, had been accused of failing to file tax returns and there were concerns that other Fairbanks residents were beginning to follow his example.

In Marler's first trial, which Stevens did not handle, the jury deadlocked and a mistrial was declared.

Marler hired Edgar Paul Boyko, a flamboyant young lawyer from Anchorage, to defend him in the second trial.

Stevens and a local judge decided to clean up the mess, Boyko recalls. "They decided that Marler would be a good start.

"Ted, who was young and full of piss and vinegar, decided to take over the retrial," he said. "He assembled an entourage to help him.

"I built a defense around the theory that there should be no taxation without representation," Boyko said.

"I gave a rabble-rousing closing argument to the jury," he said. "I said this man wanted to raise the issue that we had no representation in Congress. I said this case was the jury's chance to move Alaska toward statehood."

Newspapers around the country carried stories on the trial.

In his closing argument to the jury, Boyko called the panel "twelve Alaskans with a rendezvous with destiny."

He appealed to the jury to "strike a blow for Alaskan freedom."

"The shock of acquittal will be felt all the way to Washington," he told the jury.

"Ted had done a hell of a job in the case," Boyko recalled. "The jury's announcement of not guilty dropped like a bomb."

After the acquittal on April 3, 1956, Stevens issued a statement.

"I don't believe the jury's verdict is an expression of resistance to taxes or law enforcement or the start of a Boston Tea Party," he said. "I do believe, however, that the decision will be a blow to the hopes for Alaska statehood."

But it wasn't. The long battle for statehood had only two more years to run. Within two months of the Marler trial, Stevens was on his way back to Washington to help fight it.

[From the Anchorage Daily News, Aug. 10, 1994]

SEEKING STATEHOOD—STEVENS BENT RULES TO BRING ALASKA INTO THE UNION

(By David Whitney)

WASHINGTON.—When a brash young federal prosecutor named Ted Stevens arrived in Washington in June 1956 to take a job as assistant to Interior Secretary Douglas McKay, the prospects for Alaska statehood seemed no brighter than they had for at least a decade.

The battle had been going on since 1943 and had at least once seemed about to pay off. That was in 1950, when the U.S. House passed a bill to bring Alaska into the United States. President Harry Truman, a Democrat, supported the bill but it died in the Senate.

Two years later, Republicans captured Congress and the White House. The Republican Party opposed statehood, partly out of fears that Alaska would elect Democrats to Congress.

The Republican president, Dwight D. Eisenhower, saw Alaska as too large and sparsely populated to be economically self-sufficient as a state. Eisenhower also worried that statehood would hamstring the military's strategy for defending Alaska against an invasion by the Soviet Union.

The U.S. plan was to fight a delaying action in Alaska, gradually abandoning the hinterlands of the territory, if necessary, to an invading Soviet army. Eisenhower thought that strategy would be harder to pull off if Alaska became a state, because more people and politicians would have to be dealt with as abandonment proceeded.

The only idea that had much support in Washington was to divide Alaska, carving out its most populated areas for statehood and keeping the rest as a federal territory. That idea had little support in Alaska, particularly among rural Natives, who complained that they would be disenfranchised.

Within a couple of weeks after Stevens' arrival, however, the statehood movement got a considerable boost. McKay resigned to run for the U.S. Senate in Oregon and his replacement was Fred Seaton, a statehood advocate. McKay was not personally opposed to statehood but had never pushed for it, either, according to Claus M. Naske, a history professor at the University of Alaska Fairbanks.

Seaton was a close friend of Fairbanks Daily News-Miner publisher C.W. Snedden, one of the territory's leading negotiators in that phase of the statehood battle.

"The day after Seaton took office, he asked Snedden if he knew any Alaskan that could come to Washington to work on statehood," Naske said.

"Snedden told him that person was already working for him as his assistant," Naske said. "That person was Ted Stevens."

As a young federal staffer, Stevens was no power broker. But he quickly became an aggressive soldier in the statehood movement, earning the nickname of "Mr. Statehood" at the Interior Department.

"Ted probably spent more time with Secretary Seaton than any of us," said Roger Ernst, who was Seaton's assistant secretary for public land management.

"He did all the work on statehood," Ernst said. "He wrote 90 percent of all the speeches. Statehood was his main project."

FOCUS ON STATEHOOD

Stevens discussed his work on statehood in an interview with a researcher at the Eisenhower library in October 1977, He made clear that he was willing to bend the rules and manipulate the press to keep Alaska statehood on the administration's agenda.

"We set Ike up quite often at press conferences by planting questions about Alaska statehood," Stevens said in the interview. "We never let a press conference go by without getting someone to try to ask him about statehood."

Eisenhower's problem, Stevens said, was the he "took the position that land up there was very sparsely populated and very much an open invitation to invasion."

"I think he honestly believed that we had special vulnerability and also special significance as far as military strategy was concerned," Stevens said.

The Soviet threat to Alaska drew the top echelons of the Pentagon into the statehood debate.

Jack Stempler, who was then a top lawyer at the Defense Department, said Eisenhower relied heavily on the views of Gen. Nathan Twining, the chairman of the Joint Chiefs of Staff who had served in Alaska.

"Eisenhower wanted to make sure that there was adequate military for Alaska to protect itself." said Stempler, who is now retired, "And also, he wanted to assure himself that it would be economically viable. Without a military payroll, he had questions about whether it could be economically viable."

Two years earlier, in March 1954, Eisenhower had drawn a line on a map where he thought the state should end, with the areas north and west of the Porcupine, Yukon and Kuskokwim river remaining in federal hands.

"He said, 'Everything up there has got to be federal because the state can't protect it,'" Stevens said. "'There's a chance we're going to have terrorism; we've got a potential invasion up there. We've got to have federal powers up there.'"

With Seaton actively pressing for statehood, a compromise was fashioned to bring the entire territory into the union but with special federal protections for the sparsely populated northern and western regions that so worried Eisenhower.

Stempler said that he, Stevens and Twining then set about to define where the final version of the line should be drawn. Much of that work occurred in a room at Walter Reed Army Hospital, where Seaton was being treated for back problems.

"I remember sitting in Seaton's hospital room on Sunday mornings with Twining and Stevens talking about this," said Stempler. "Maps were taped to the walls. We discussed what wilderness areas would be hard for a young state to handle. The line was negotiated and after that, statehood moved forward."

The line became known as the PYK Line. From the northeast corner of the territory, it followed the Porcupine, Yukon and Kuskokwim rivers to the Bering Sea, then went south and east to clip off the lower half of the Alaska Peninsula and the Aleutian Islands.

The PYK line became the basis for Section 10 of the statehood act, which Stevens wrote. The land north and west of the line was included in the new state, but Section 10 gave the president emergency powers to take direct federal control of those areas, which include Prudhoe Bay and the Arctic National Wildlife Refuge.

Section 10 was a key to statehood.

"It's still in the law but it's never been exercised," Stevens said. "Now that the problem with Russia is gone, it's surplusage. But it is a special law that only applies to Alaska."

With the PYK Line settled, Stevens worked with Snedden, Anchorage Times publisher Bob Atwood and the Alaska Statehood Committee to lobby for statehood.

BENDING THE RULES

By 1956, Alaskans had held a convention in Fairbanks to adopt a constitution for the state they hoped to become. And they had elected three Democrats to go to Washington as unofficial delegates to Congress. Ernest Gruening and William Egan were Alaska's U.S. "senators," and Ralph Rivers was its U.S. "representative."

Stevens hired Atwood's daughter, Marilyn Atwood, to help him at the Interior Department. Together they drew up cards on members of Congress.

"I had made a study on each member of the Senate and this goes on now into '57, '58—whether they were Rotarians or Kiwanians or Catholics or Baptists and veterans or loggers, the whole thing," Stevens said in the 1977 interview.

"And we'd assigned these Alaskans to go talk to individual members of the Senate and split them down on the basis of people that had something in common with them," he said.

"We were violating the law . . . we were lobbying from the executive branch, and there's been a statute against that for a long

time," Stevens said. "We more or less, I would say, masterminded the House and Senate attack from the executive branch."

The lobbying campaign also targeted newspapers.

"We planted editorials in weeklies and dailies and newspapers in the district of people we thought were opposed to us or states where they were opposed to us so that suddenly they were thinking twice about opposing us," Stevens said.

The long campaign for statehood paid off in 1958, when Congress passed a bill admitting Alaska to the Union. Eisenhower signed the act on July 7, 1958.

The act authorized the new state to select 103.5 million acres of "vacant and unappropriated public domain" to develop an economy.

Three years later, in the last days of the Eisenhower administration, when Stevens was the Interior Department's top lawyer, he wrote the public land order creating what is now the Arctic National Wildlife Refuge. The signing of that order was Seaton's last official act.

ANWR was created in an effort to end a much more sweeping land order that had withdrawn the whole of Alaska's Arctic during World War II, Stevens said.

"It was a great goal of people, particularly at Interior, who were quite interested in a gas field (near Barrow) at the time," Stevens said.

The withdrawal was supported by the state, according to Phil Holdsworth, Alaska's first commissioner of natural resources.

What Alaska got out of the deal was the lifting of the federal ban on state land selections in a large middle section of the North Slope bordered by the 9 million-acre arctic refuge to the east and the Naval Petroleum Reserve to the west.

That midsection contained a then-obscure landmark called Prudhoe Bay. Ten years later, it would become the site of the biggest oil strike in North American history and the foundation of Alaska's economy.

Now, as Prudhoe Bay reserves decline, the oil industry insists that the best hope for keeping up oil production in Alaska is the coastal plain of the refuge that Stevens helped create.

The 1980 Alaska Lands Act requires a vote of Congress to open it to oil drilling and, so far, environmental opposition has prevented that from happening. But Stevens maintains the creation of the refuge was—at the time, at least—a small price to pay for opening Prudhoe Bay and much of the rest of the North Slope to oil exploration. The land order he wrote more than 30 years ago contained no legal barriers to drilling, he insists.

"The order specifically allowed oil and gas exploration in the arctic range subject to stipulations to protect fish and wildlife," Stevens said. "I think it was a very good deal."

[From the Anchorage Daily News, Aug. 11, 1994]

PENCHANT FOR POLITICS—RULE CHANGE ENABLED HICKEL TO APPOINT STEVENS TO SENATE

(By David Whitney)

WASHINGTON.—Ted Stevens says he had no clue he would become Alaska's next U.S. senator when E.L. "Bob" Bartlett died in 1968.

In fact, Stevens may have been the politician least likely to replace the popular Democratic incumbent.

After completing a four-year stint with the Eisenhower administration, where he rose to be top lawyer at the Interior Department, Stevens had packed up his wife, Ann, and their five small children and headed for Anchorage in 1961.

He opened a law practice representing, among other clients, oil companies seeking to drill on state leases. He also did legal work for the state's two largest newspapers—The Anchorage Times and the Anchorage Daily News.

And, less than a year after leaving Washington, Stevens got into politics.

In 1962, he ran against U.S. Sen. Ernest Gruening and lost to the Democrat by a 3-2 margin.

He ran for the state House in 1964, won, and won again in 1966, the same year Wally Hickel was elected to his first term as governor. Stevens served as House majority leader in 1967 and 1968.

Stevens ran again for Gruening's seat in 1968, just months before Bartlett's death, but this time he didn't even make it into the general election. He lost the primary to Anchorage banker Elmer Rasmuson. On the Democratic side of the ballot, Mike Gravel beat Gruening, then did the same thing to Rasmuson in the general election.

What seemed pretty well-established by the time Bartlett died in December 1966 was that the cigar-smoking Stevens didn't have much of a statewide following.

In his book on Bartlett, University of Alaska history professor Claus M. Naske said Bartlett had been having heart trouble long before he was hospitalized in Cleveland in November 1968. Until his heart surgery, however, it appears that Bartlett's declining health was little-known in Alaska.

Nonetheless, Republican leaders in the state legislature were aware that both of the state's U.S. senators—Bartlett and Gruening—were getting along in years and they wanted to make sure Hickel could pick a fellow Republican as successor.

At the time, state law required the governor to appoint someone of the imcumbent's party. Republican lawmakers, who for the first time since statehood held a majority in both houses of the legislature and also had a Republican governor, set out to change the law in early 1967.

The sponsor of the legislation was Senate Majority Leader John Butrovich. He said in a recent interview that he had no idea that the change in the appointments law would be used so soon.

He said he was aware that Bartlett had health problems but he never suspected how serious they were.

"When he passed away, it sure was a surprise to me," Butrovich said.

The legislation quickly moved to the House, where Stevens was in charge of the agenda. But Stevens says he doesn't remember much about it and certainly didn't expect to be its first beneficiary. The new rule took effect in mid-1967.

"I had no inkling that I would be appointed should there be a vacancy," Stevens said. "I had no reason to believe we would have a vacancy. I considered Bartlett's health to be robust."

Anchorage lawyer Joe Josephson, who worked in Bartlett's Senate offices between 1957 and 1960, said he can understand how Alaskans could have been ignorant about Bartlett's health.

"My general impression was that he had a lot of ailments but it never affected his performance," Josephson said. "It's fair to say that I doubt he sent out bulletins on his condition. He would not have been very forthcoming about health problems."

Indeed, an Associated Press report of Bartlett's death at the time made no mention of persistent health problems.

Had the law not been changed, the most likely prospect to fill Bartlett's seat would have been Edgar Paul Boyko, a Democrat whom Hickel had appointed attorney general.

Boyko still thinks about the Republicans' maneuvering.

"I don't think it was aimed at me personally," Boyko said recently, "It was aimed at heading the Democrats off at the pass. But Stevens had no reason to think that he would have been Hicken's first choice, either."

HICKEL'S QUANDARY

Bartlett's death on Dec. 11, 1968, set off an immediate scramble for a replacement. Among the strongest contenders were Elmer Rasmuson and Hickel's longtime friend Carl Brady. Stevens' name, though mentioned, was not prominent on anyone's list—except Hickel's.

Hickel was in Washington at the Shoreham Hotel on Dec. 11, awaiting President-elect Richard Nixon's announcement of a slate of Cabinet nominations—including Hickel's for Secretary of the Interior.

"I was handed a note that Bartlett had died," Hickel recalls. "I went over to (Nixon) and he mentioned that he knew Ted.

"Nixon said 'Wally, what are you going to do?'" Hickel said, "I told him the people I had in mind. There was Rasmuson, Brady and Stevens.

"The president looked at me and said, 'Wally, do you have the courage to appoint Ted?'" Hickel said.

"And I said, 'I want to do what is right,'" Hickel said. "Carl Brady was a close friend of mine. I had known Rasmuson for many, many years. But Ted Stevens was a survivor, in my opinion."

Once the tenacious Stevens was in office, Hickel was convinced, no candidate would be able to unseat him.

Stevens insists he was unaware any of this was going on.

He said he and Ann were in Mazatlan, on the first real vacation they had taken since they were married in 1952.

"We got a collect telegram," he said. "It said 'Call Hickel.'"

Stevens said he telephoned Juneau and learned of Bartlett's death. "Hickel told me that he wanted me to come back and talk to him about taking Bartlett's place."

On the way back from Mexico, Stevens stopped in Seattle for a meeting with Hickel about the Senate seat, setting off speculation that he might be a candidate for the job. But news reports at the time said Stevens was more likely to go to Washington to work with Hickel at the Interior Department than to join the U.S. Senate.

Stevens put that speculation to rest when he flew into Anchorage the next day. Stevens said the only way he would return to Washington would be as U.S. senator.

Stevens' oldest child, Susan Covich, remembers her father and mother gathering the children in their Anchorage home about this time to discuss the possibility of moving to the capital. Covich was 15.

"It was definitely a family discussion as to whether we would go," she said.

Covich, now a computer tutor at a North Kenai elementary school, said the discussion came as a surprise to her because, after her father's primary defeat in August, "there was some talk of him stepping out of politics for a while."

Stevens seemed like a long shot for the Senate job. Interior Republicans were supporting Butrovich for the appointment. And,

when Robert A. Davenny, chairman of the state Republican Party, called a meeting of the state central committee to recommend names for the seat, Stevens at first didn't make the list.

The central committee ultimately sent Hickel a more expansive list of 10 people for the seat. Stevens' name had been added, along with two members of the ultra-conservative John Birch Society.

Within a couple of days, Hickel had narrowed his choice to Brady and Stevens. His problem, he said, was that sometime before he had promised Brady to appoint him to any vacancy.

Hickel summoned both men to his Anchorage home Dec. 23 to talk about the seat. By the time they arrived, Brady had already concluded that Hickel really wanted Stevens and that he should bow out.

"My wife and I decided that, why would we want to be back in Washington if the governor didn't want me there?" Brady said. "I agreed to withdraw if Hickel would appoint Stevens."

"There's no question Hickel did the right thing," said Brady, who went on to make a fortune as operator of Era Aviation. "Ted is more popular with Democrats and Republicans. He is well-loved by everybody. I am more conservative."

Stevens said he was stunned by Brady's decision.

"I was really very humbled," Stevens said. "I told Carl that he had a commitment from Hickel, that he could have held Hickel to it, and I think Hickel would have stayed with it."

Sitting in Hickel's home Dec. 23, just minutes after the governor announced Stevens' appointment, Stevens pulled a dollar bill from his wallet.

Stevens signed his name to one end and handed it to Brady to sign the other. Stevens tore the bill in two, giving Brady the half with Stevens' signature.

"I said, 'If you ever need help, and you really want my help from in or out of the Senate, send that to me.'" Stevens said. "I've never received the other half."

But, in 1978, when Hickel was running in the gubernatorial primary against Republican incumbent Jay Hammond, Brady came close to cashing in his half of the dollar bill.

"I wanted him to support Hickel in the primary," Brady said. "Ted refused. He said he couldn't oppose a Republican incumbent."

By Senate tradition, members don't take sides in contested state primary elections.

"I said that I'd never called in my half of the tab," Brady said. "'What if I did that?' And he said, 'My friend, I'd have to resign from the Senate.'"

Stevens doesn't remember the incident but, whether he was serious or not about leaving the Senate, that was that. Brady dropped the matter. Stevens didn't support anybody in the primary, and Hickel lost.

[From the Anchorage Daily News, Aug. 12, 1994]

BITTER BATTLE—NO LOVE LOST BETWEEN STEVENS, GRAVEL

(By David Whitney)

WASHINGTON.—One of the biggest influences on the Senate career of Ted Stevens was Mike Gravel, and not a moment of their 12-year relationship was pleasant.

Years after Gravel, a maverick Democratic senator, was unseated by Republican newcomer Frank Murkowski in 1980, Stevens still seems haunted by the man.

They fought over just about every Alaska issue that came up before Congress.

They disagreed over extending the U.S. territorial limit 200 miles out to sea—the catalyst for the Magnuson Fishery Conservation and Management Act of 1976, which gave Alaskans a dominant voice in the management of commercial fishing in federal waters off the Alaska coast.

They fought over the 1971 Alaska Native Claims Settlement Act. They feuded over the 1973 Trans-Alaska Pipeline Authorization Act. And—most famously and bitterly—they fought over the Alaska National Interest Lands Conservation Act of 1980.

Gravel thinks the animosity resulted from the 1968 election, which he won by defeating incumbent Ernest Gruening in the Democratic primary and then beating Anchorage banker Elmer Rasmuson in the November general election.

Stevens had lost to Rasmuson in the Republican primary. Gravel, who now lives in California, thinks Stevens blamed him for attracting Democrats who, Stevens felt, would otherwise have crossed over and helped him beat Rasmuson in the primary.

Stevens saw Gravel as a grandstander and himself as the pragmatic workhorse willing to cut the best deals he could for the state—even when the best deal was not popular in Alaska.

Year by year, the feud worsened.

It reached its pinnacle in the congressional battle over ANILCA, finally enacted in August 1980.

President Jimmy Carter had made the lands act his top environmental priority. The final bill placed 104.3 million acres of the state under federal protection, more than doubling the size of the nation's park and refuge system and nearly tripling the amount of land set aside as wilderness in the country.

Gravel wanted to prevent any bill from passing, while Stevens believed stonewalling would only make things worse.

COMPROMISE BATTLE

In October 1978, with the Carter administration threatening to use presidential authority to lock up Alaska lands from state selection until a lands act was law, such a deal seemed at hand. It involved turning about 96 million acres of federal lands in the state into national parks, refuges and preserves.

With environmentalists arguing for protection of even more lands, Stevens warned that the compromise was about as good a deal as the state was likely to get. Under pressure from state interests, Gravel indicated he would not block its passage.

But in the closing hours of the 1978 session, Gravel suddenly made new demands. Among other things, he wanted better access to oil drilling and mining sites and a ban on any future taking of Alaska lands. Gravel's 11th-hour appeal killed the compromise.

"You've got yourself in a big battle now, buddy," Stevens screamed at Gravel on the Senate floor. Stevens said the collapse would delay the transfer of 100 million acres of federal lands still owed to the state and Natives under the 1958 Alaska Statehood Act and the 1971 Alaska Native Claims Settlement Act.

"You carry that burden," Stevens told Gravel.

Stevens wasn't alone in blasting Gravel.

Sen. John Durkin, a New Hampshire Democrat who was one of the Senate's leading environmentalists, attacked Gravel for killing the compromise.

"The people of Alaska should know that this compromise foundered on two words," Durkin said. "Those two words are Mike Gravel."

Later, when reporters asked him about Gravel's action, Stevens said that "my mistake was in trusting him."

Gravel responded by accusing Stevens of "being prepared to sell out too much." He returned to Alaska bent on convincing voters that Stevens should not be returned to office in the 1978 elections.

According to news accounts at the time, Gravel pumped $24,000 of his own campaign money into the coffers of Stevens' 1978 Democratic challenger, Anchorage electrical contractor Don Hobbs. The money supported advertisements telling Alaskans that a vote for Ted Stevens was a vote for compromise. A vote for Hobbs was a vote to fight.

The ads barely dented Stevens, who was easily re-elected.

CRASH KILLS WIFE

But Gravel's action in killing the compromise meant a continued congressional battle over the lands act. And that meant more money was needed for the lobbying activities of Citizens for the Management of Alaska Lands, the state's leading organization battling environmentalists over the bill.

The group scheduled a fund-raiser for Dec. 4, 1978, in Anchorage.

Stevens was in Juneau that day for the second inauguration of Gov. Jay Hammond. To make the fund-raiser after the inauguration, Stevens, his wife, Ann, and five others boarded a private Learjet for the trip to Anchorage.

The plane hit gusty crosswinds and flipped on approach to Anchorage International Airport. Stevens and Tony Motley, the head of the citizen group, were the only survivors of the crash.

Ann's death devastated Stevens.

Testifying before a House panel on the lands act two months later, at the beginning of the 1979 legislative debate, the grieving senator made statements widely interpreted as accusing Gravel of killing his wife.

Stevens said the flight wouldn't have been necessary if Gravel had kept his word and supported the compromise.

"As I am sure you realize," Stevens somberly told the House Interior Committee, "the solution of the issue means more to me than it did before."

"I don't want to get personal about it, but I think, if that bill had passed, I might have a wife sitting at home when I get home tonight, too," Stevens said.

Those remarks appear in newspaper accounts but not in the printed transcript of the House hearing. They were most likely excised by Stevens' aides, although no one interviewed for this story could recall who might have done so. Aides to senators often rewrite parts of hearing transcripts to make their bosses look better.

Stevens now says his remarks were misinterpreted.

"People said I accused him of killing Ann," Stevens said. "I was just stating a fact. We would not have gone on that plane if it were not the fact that we had to raise money. But I don't think he killed her."

Gravel said he interpreted Stevens' remarks as accusing him of Ann's death. He also said he now doesn't think Stevens meant it to come out that way.

"I think when things didn't go well, he focused his anger on me," Gravel said. "It was a ridiculous accusation. It was a product of the trauma of the accident. It had to be the trauma. He is not an unstable person."

By this time, Alaskans were wondering if the intensifying hostilities between Stevens and Gravel would undermine their interests.

Hammond and several other government officials convened a "unity meeting" in 1979

to urge the two senators to present a common front.

The open hostilities subsided. But Gravel, facing re-election in 1980, continued to fight any lands act while Stevens worked with Senate and House leaders to craft the best deal he could.

The final deal that cleared Congress, as Stevens predicted, locked up more land than the 1978 compromise.

The 1978 deal would have protected 96 million acres, putting 50 million acres of that into wilderness off-limits to any form of development. The final bill protected 104.3 million acres, of which nearly 58 million acres was wilderness.

According to Steve Silver, who worked on the lands act for Stevens, the difference between the two versions was more than just the additional 8 million acres of land.

The 1978 compromise, said Silver, "had smaller parks and refuges, more carve-outs for mining and larger preserves where hunting was allowed," he said.

But Gravel said he also objected to the final version of the lands act because it contained an automatic $40 million annual appropriation for logging in the Tongass National Forest. He opposed the subsidy on principle and predicted, correctly as it turned out, that the provision would make subsidized logging in the forest a continuing controversy.

Gravel's objections made no difference, however. The lands act was approved Nov. 12 in a lame-duck congressional session just eight days after Murkowski defeated Gravel's bid for re-election.

Gravel said he has no regrets about trying to stop the bill in the hope that a less restrictive version would be approved in 1981, when Ronald Reagan would be president and the Senate would be controlled by Republicans.

"Had we delayed, I thought we could bring about a more balanced bill," Gravel said.

Stevens also voted no on the bill. Even though he had helped work it into its final form, he thought it was still too restrictive.

Even today, Stevens winces at the mention of Gravel's name. He began a series of interviews for this profile saying that he didn't want to talk about Gravel. Although he reluctantly answered a few questions, he did so in terse responses and never spoke kindly of his old foe.

But incidents recounted by friends and former aides of Stevens indicate his feelings have slowly softened.

Tim McKeever, Stevens' top aide in 1980, said he was at Stevens' home that November watching election returns showing Murkowski defeating Gravel.

"I remember Stevens saying, 'I wonder how his kids must feel,'" McKeever said, "My impression is that Stevens felt genuine concern about what Gravel's family must be feeling."

The second incident was in 1985, at a surprise birthday party for Ron Birch, a former Stevens aide who now is a Washington, D.C., lawyer and lobbyist.

Birch said Gravel was at the party when Stevens arrived.

"Stevens came up to me and said that it is time to stop this," Birch said, "And then he went over and shook Mike's hand."

Stevens remembers that event but said it didn't clear the air.

"It was a gesture on my part that has never been repeated by Gravel," Stevens said.

Gravel is sorry now he didn't reciprocate.

"It's always been a personal regret to me" Gravel said. "It's unfortunate because he is a very good person. We just got off on the wrong foot."

[From the Anchorage Dailey News, Aug. 13, 1994]

STEVENS' PRIORITIES CHANGE AFTER MARRIAGE, BIRTH OF DAUGHTER

(By David Whitney)

WASHINGTON.—The death of his first wife, in 1978, began a difficult transition to a new life for Sen. Ted Stevens.

As he grieved, he came to regret all the years he had worked around the clock, leaving Ann at home to take care of their five children.

"I was busy trying to earn a living, working hard no matter where it was and what we did," Stevens said, "And the time when I came to the Senate—my God, what a period.

"We were constantly on the move, plus it was hard to campaign. One year I was away from home 50 weekends * * * going to Alaska, going to make speeches, raising money," he said, "I spent a lot of time away from my family."

In December 1980, Stevens married Catherine Bittner Chandler, the lawyer daughter of a prominent Alaska family. Catherine's roots, like Ann's, were solidly Democratic and liberal. Lily, his sixth child, was born the following summer.

Lily's birth reinvigorated Stevens, who was then 57.

"It was wonderful," Stevens said. "Not many people have the privilege of being a father at that age."

"I've talked to a lot of fathers who have children later in life, who have had two families," Catherine said. "I think Ted is no different than almost any that I have talked to.

"The first time, you really have to be busy going to the office, and you don't really think about it when you're young and making your career," she said. "When they have a child later, it's, 'What's this precious little thing?' It's really exciting for them. It's not that it wasn't exciting in the beginning. It's just that they were dedicated to making a living."

Stevens' children from his first marriage are adults now, most with their own families.

Susan Covich, his oldest daughter, is 40. She's married, has children of her own and is a computer tutor for students at North Star Elementary School in North Kenai. Elizabeth Stevens, 39, works with the U.S. Fish and Wildlife Services in Colorado. Walter Stevens is a multimedia management specialist in Arizona. Ted Stevens, Jr., 37, just completed law school in California, and is awaiting results of the July bar examination. Ben Stevens, 35, is a fishing vessel captain living in Anchorage.

Susan and Ben said in interviews they remember their father being gone a lot when they were children. Many weekends, a baby sitter would move into their house while Stevens and his wife were off in Alaska. But they said they don't have any regrets.

"I remember Dad working hard during the week and playing hard on the weekends," said Covich.

She said her father was especially busy in 1971, her senior year in high school. Stevens was working long hours on the Alaska Native Claims Settlement Act and on trans-Alaska pipeline legislation.

"We didn't get much of a chance to see him," Covich said. But still, she said, her father made time for important family events, including her high school graduation.

Ben was 9 when his parents moved the family to Washington. He said he never felt neglected during his father's frequent absences.

"He was dedicated to his job," Ben said. "As we grow older, we realize this."

He said his father has "mellowed" since Lily's birth, and dotes on his youngest child.

"He is not as strict as he used to be," Ben said. "He ran a regimented family when we were younger."

"It is fortunate that he gets a chance to do what he thinks he should have done (with us)."

Stevens' new family in 1981 came just as he reached the pinnacle of his power in the Senate.

COSTLY DEFEAT

In 1975, Stevens was elected chairman of the Republican Senatorial Campaign Committee, which raised money to elect Republicans to the chamber. Republicans were worried that voters would savage the party in the 1976 elections because of the Watergate scandal and the resignation of President Richard Nixon in August 1974.

But, when all the votes were tabulated, Senate Republicans had held their ground with 38 seats. Two months later, Stevens was unanimously elected Republican whip, or assistant leader—the party's second-highest post in the Senate.

In 1980, Republicans riding on the coattails of Ronald Reagan won control of the Senate for the first time since 1954, and Stevens was elevated from minority whip to majority whip. The job gave him considerable influence over the Senate's agenda, a large office suite in the Capitol and a chauffeured car.

In 1984, Stevens ran for majority leader, the top job in the Senate. He lost to Sen. Bob Dole, R-Kan., by three votes.

Dole was seen as more likely to run the Senate independently from the Reagan White House, according to newspaper reports at the time.

But Stevens thinks power politics was partly to blame for his defeat. He said some Republicans on whom he had counted instead voted for Dole because the Kansan's election meant new committee positions for them.

Stevens was devastated by the loss. He had had to give up the job of whip to run, and the Dole victory ended his 10-year climb up the leadership ladder.

But the defeat improved the personal side of Stevens' life. For the eight years he was whip, he had arrived early to open the Senate and stayed late to close it.

"Now I can take Lily (then 3) to school in the morning and maybe even pick her up at night sometimes," Stevens said after the vote. "It's not all bad."

The aftermath of that defeat has led to some of the best years in Stevens' public life, he said in a recent interview.

In 1985, Dole appointed Stevens chairman of a Senate group created to observe arms-control negotiations in Geneva. With most of the pressing Alaska issues already resolved, the appointment gave Stevens the chance to travel frequently with Catherine and Lily.

"We flew Alaska salmon over to Geneva and had parties for the Russians," he said. "First they came alone, then they came with their wives. Before we were through they were walking around the lake with us and we were talking to them on Sunday afternoon. Those were good days."

FINANCIAL PROBLEMS

But the private side of Stevens' life was anything but comfortable. He was in deep money trouble.

In 1979, three years after helping shepherd the Magnuson Fishery Conservation and Management Act through Congress, Stevens and nine partners invested in the industry

the act was intended to stimulate. They built a $2 million crab boat and christened it the "Lady Ann," in honor of Stevens' first wife.

Stevens said at the time that his work on the Magnuson Act was no ethical bar to investing in the fishery, adding that "I'd like to be accused of being the only senator that owns a fleet of fishing boats."

The investors included Catherine's brother, William Bittner, and Ron Birch, a former Stevens aide who had formed a law partnership with Bittner.

Birch said in a recent interview that each investor put up $20,000 to secure a bank note. Cash calls came later for equipment and supplies, he said.

By the time Lady Ann hit the water, the crab industry was on the rocks, and investors in the vessel were facing payments on a debt with interest rates soaring to 21 percent, Birch said.

Stevens' partners were lawyers and businessmen making more money than he did as a senator. They could handle the strain, but Stevens said he had trouble making his payments.

But the bigger burden, Stevens said, was Catherine's investment in an Arizona cattle ranch.

Neither would go into much detail but Catherine said her investment in the 39,000-acre ranch ran into problems with the Internal Revenue Service.

"We had a big tax bill," Catherine said. "We had been hassling with them over depreciation schedules and various things like that. The problem is that if you owe back taxes, with the interest, it was enough money. I don't even remember how much money it was."

In December 1986 the couple sold their suburban Maryland house to pay off debts and rented a home in Washington, D.C.

"Those were bad days," Stevens said. "Those were the tough times."

Frustrated by his own financial predicament and facing another re-election campaign in 1990, Stevens seemed discouraged.

In an interview in 1988, he complained about how much he had given up for a public-service career. He said he considered the 1990 election "pivotal" for him and the state.

"Politics is a very fickle thing," he said. "I see this election as determining whether the state wants someone with great seniority.

"I just want people to understand the commitment I'm making if I stay on," he said. "This is a period I could go out and make $1 million a year without any question."

Then, in March 1989, it seemed Stevens might not be a candidate for re-election.

President George Bush's nomination of John Tower to be secretary of Defense was rejected by the Senate, and the White House went searching for a less-controversial candidate who would be easy to confirm. Stevens' name was among those floated for the job.

Sean O'Keefe, then Stevens' top military aide, said he thinks Stevens was seriously considered.

According to O'Keefe; who later became Navy secretary under Bush, the White House called the morning of March 10—the day the nomination was to be announced—wondering where Stevens could be reached, if needed.

Less than an hour before the announcement, Stevens was in his office anxiously contemplating his options.

Alaskans had repeatedly elected him to be their senator, Stevens told a reporter that morning. That was not something that could be easily dismissed.

"I have a real feeling about the presidency," Stevens later said. "If the president asks you to do something, if it's within your power, I think you should do it. I never faced that problem."

In the end, he never had to. The Defense Department job went to former Wyoming Rep. Dick Cheney, who had served in the U.S. House with Bush.

Stevens' reaction was to dismiss the episode as a flash in the pan. He said he doesn't think Bush ever seriously considered him because he had backed Bob Dole—not Bush—in the 1988 Republican primary.

"Bush personally asked me for my support. I told him that Dole has been very generous to me and that I intend to support Dole," Stevens said. "Presidents don't forget things like that."

Bush wouldn't comment on how seriously he considered Stevens for the job. The ex-president is writing a book and "he's keeping his powder dry on this one," figures aide Jim McGrath. "I don't think he wants to scoop himself."

FINDING THE BALANCE

Today, at 70, Stevens seems more at peace. He travels to the state about 10 times a year, staying when time allows at his Girdwood chalet—his official residence. Though he still maintains a rigorous schedule in Washington, he takes time to drive Lily and her schoolmates to soccer games.

But he's as political as ever. He's already said he plans to run for re-election in 1996. And, on the Senate floor, he is as tenacious as ever, doing everything he can to keep federal money flowing north.

Thanks to the dying gift of one of his first friends in Alaska, his own money problems seem to be behind him.

That friend was former Fairbanks Daily News-Miner publisher C.W. Snedden, who died in 1989.

Snedden willed Stevens one of his most cherished possessions—a 55-foot motor yacht called the Lorichuck. Unable to afford the vessel's moorage fees in Seattle and in need of cash himself, Stevens put the vessel up for sale at an asking price of $650,000.

It is not clear how much the vessel actually fetched. But a Seattle boat broker said about the time the yacht was sold that he knew of a pending $420,000 offer. Stevens said he and Catherine used the proceeds to pay off bills and buy the house they had been renting.

Stevens described Snedden's bequest as "one of those great testimonials to friendship."

"He had personal knowledge of my personal finances over the years," Stevens said in a 1989 interview. "It was a gesture to help me stay in the Senate."

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RURAL HEALTH

Mr. MOYNIHAN. Mr. President, New York State is best known for its large metropolitan areas; however, there are nearly 3.1 million rural residents in the State. The rural population in New York is larger than the population of 21 States. In many rural areas of New York, the existing health care delivery system is inadequate, inappropriate, or generally unavailable.

Rural communities of New York State and the Nation are experiencing serious challenges in attracting and retaining health care providers and health care services. Hospitals and primary care facilities continue to close. Communities are concerned about the availability of emergency medical services [EMS]. Physicians are retiring and some are leaving the rural areas which only adds to the health professional shortage problem.

In recognizing the needs of rural areas, the Federal Government has supported initiatives to assist States and local communities in meeting their health care needs. New York State is one of seven States that receive grants under the Essential Access Community Hospital [EACH] and the Rural Primary Care Hospital [RPCH] program. These grants help develop rural health networks by linking at least one full service hospital [EACH] and one or more limited service hospitals [RPCH's]. However, even before the Federal program was initiated in 1989, New York State supported the development of rural health networks.

Currently, New York's rural health network initiative supports four rural health network demonstration sites—Upper Hudson (Adirondack Rural Health Network), Chenango Health Network, Northern New York Rural Health Care Alliance, Southern Tier Healthcare System—and has been working with a number of other rural provider groups to develop additional integrated networks of health care providers. Specifically, the State of New York is helping networks to coordinate and integrate services in three major service categories: (a) hospital services; (b) primary care services; and (c) emergency medical services. These services must be integrated both within each category and among the categories.

The rural health amendments offered by Senator DASCHLE and other members of the rural coalition will certainly assist rural areas in New York. Providers in underserved rural Counties such as Jefferson, Essex, Yates, and Cortland would be eligible to apply for the following: Funding for the development of health care plans and networks; bonus payments under Medicare for primary care physicians and nonphysician practitioners practicing in rural areas; tax incentives for health care providers who locate in rural areas; more generous expensing for medical equipment used to provide primary care services in rural areas; additional funding for the National Health Service Corp.

All rural areas, some 44 counties in New York State, would benefit from the following provision: Grants for the

development of rural telemedicine; rural emergency medical services [EMS] program grants; higher payments for small rural Medicare dependent hospitals; Medicare rural health transition grants for rural hospitals to modify the extent and type of services they provide; the rural based managed care program to increase the number of rural managed care plans.

Indeed, this is a significant step toward expanding our capacity to delivery health care services in rural communities.

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. 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.

AMENDMENT NO. 2569 TO AMENDMENT NO. 2560

(Purpose: To clarify the grounds for the nonrenewal or termination of a health plan in the event of the nonpayment of premiums)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Mr. MITCHELL] *proposes an amendment numbered 2569 to amendment No. 2560.

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

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

The amendment is as follows:

On page 1432, strike lines 21 through 24, and insert the following:

SEC. 10135. PROVISIONS REGARDING NONPAYMENT OF PREMIUMS.

(a) IN GENERAL.—A health plan may terminate coverage if amounts owed to the plan for a month with respect to an individual or an individual's family members have not been fully paid for a time period established under State law, or in the absence of such a law, a period of not less than 60 days, and the heath plan has made reasonable attempts to collect such amounts.

(b) NOTICE.—Notwithstanding any other provision of this Act, a health plan may terminate coverage for nonpayment of premiums under subsection (a) only after providing notice of amounts overdue (in a form and manner and at such times as prescribed by the appropriate certifying authority).

Mr. MITCHELL. Mr. President, under the legislation which I introduced, a sponsor of a standard health plan has the authority to terminate an insurance policy for nonpayment of premiums. That is an authority which currently exists and is administered under State law with respect to insurance policies.

Under the legislation, if 95 percent of coverage is obtained by the year 2000, then no employer requirement with respect to participation in the cost of insurance would be required, and the status as I have just described it would be permanent thereafter.

So under the amendment, for at least a period of 7 years, and then depending upon what occurred thereafter, possibly permanently a company would retain existing legal rights to terminate a policy for nonpayment of premiums.

However, under the legislation, in the event that 95 percent of coverage is not achieved by the year 2000, and in the further event that Congress does not act thereafter to remedy that situation, then beginning in the year 2002 an employer requirement is created under which employers having 25 or more employees would be required to participate in the cost of health insurance for employees on a 50-50 cost-sharing basis. Employees of firms with fewer than 25 employees would be exempt from that requirement.

In order to prevent a situation under those circumstances in which an employee of a covered firm paid his or her premium but the employer failed to make the contribution required by law, the legislation is intended to prohibit termination of a policy in that circumstance; that is to say, in the event the employee paid his share of the premium and thought he was covered, but the employer failed to make his required payment, under which circumstance the concern was that the employee's policy would be canceled even though the employee had paid his share and might not even be aware of the employer's lack of contribution.

The language of the proposal which was intended to achieve this narrow result has been interpreted by some in a way which creates an ambiguity and which some have suggested prohibits in all circumstances, at all times, under the legislation, a circumstance in which a policy could never be canceled for nonpayment of premium.

That is clearly not the intent of the legislation, and this amendment is intended to resolve any ambiguity in that regard.

The amendment provides that a health plan may terminate coverage if the premiums are not paid for a time period as established under State law, and if there is no State law, then a period of 60 days.

Now, I emphasize again, this applies only in the period after the year 2002 if the employer requirement is triggered and that employer does not meet the responsibility of the law even though the employee may have paid his premium or, of course, in the event the employee did not pay his premium.

Almost all and perhaps all States have grace periods prior to the cancellation of policies. They generally are in the range of 30 days. They vary somewhat depending upon the type of policy and the State.

So what this says is in that situation, if a premium is not paid either by the individual employee or by the employer, the termination of the policy could occur subject to State law with respect to the grace period.

In the event that the nonpayment of premium by either the individual employee or the employer occurred and the State did not have a law containing a grace period, the grace period would be 60 days.

So, Mr. President, this is an effort to clarify a possible ambiguity in the manner in which the underlying legislation is interpreted and to make clear again, first, that for the period between 1995 and 2002, and perhaps on a permanent basis, depending upon whether the employer requirement is triggered, insurance companies and other health plan providers retain their right to terminate policies for nonpayment of premiums consistent with applicable State law.

Mrs. FEINSTEIN. Mr. President, will the Senator yield for a question?

Mr. MITCHELL. Yes, certainly.

Mrs. FEINSTEIN. If I may, as the majority leader knows, this was a section that troubled me very greatly. I think it is title X, section 10135. It is my understanding of what the majority leader is saying that this section, first of all, does not come in until after the year 2000; and second, it applies only if the mandate is triggered and the employer does not pay his share. Am I correct in this?

Mr. MITCHELL. If the employer does not pay his share or if the employee does not pay his share.

Mrs. FEINSTEIN. My next question is what would happen after the 60 days expired?

Mr. MITCHELL. In the event that the premium remained unpaid and the plan had made a reasonable attempt to collect and had notified the employee, the policy would be terminated.

Mrs. FEINSTEIN. The policy would terminate?

Mr. MITCHELL. Yes.

Mrs. FEINSTEIN. So there would be no need for someone to sue to gain payment; the policy would terminate?

Mr. MITCHELL. That is right. The insurer, the insuring party has the power and authority to terminate the policy as under current law.

Mrs. FEINSTEIN. I thank the majority leader very much. I think that is a substantial improvement, and I am very pleased to see it.

So I thank the majority leader.

Mr. MITCHELL. Mr. President, that completes my explanation of the amendment.

I was earlier advised and announced that no recorded vote would be necessary.

I will be pleased now to yield the floor and permit my colleague from Oregon to make such remarks as he may wish.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, there will be no vote on this amendment, and we will be prepared to accept it.

I think a few Members have some things they would like to say, and it is understandable. I appreciate the majority leader's reasonableness on this.

All you have to do is stand here on the floor next to the majority leader, 5 feet away, and listen to the demands on his time: Please vote by 5 o'clock; I want to be home by 5 p.m.; Do not vote before 6 because I will not be back. And 100 voices, majority and minority Members, a cacophony of people talking to him. It is understandable that you cannot know everything that is in your own bill. You cannot go through 1,400 pages and find every possible permutation.

When he says the bill was intended not to cancel employees if the employer did not pay the premiums, I realize that in the hearts and minds of the drafters, that is what they hoped.

It is simply, I think, not unlike the $10,000 penalty we had yesterday. It slipped into the bill somehow unnoticed.

This slipped into the bill somehow unnoticed. And my hunch is there are other things in the bill unnoticed that will be unearthed before we are finished.

I am delighted the majority leader caught the error and was willing at least to remedy this slight mistake in the bill.

But I say again, I can perfectly understand how it is impossible to know everything in a bill even when it is your own bill.

Mr. MITCHELL. Mr. President, I thank my colleague for his kind remarks.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I am sure the Senator has had the same experience. In 1986, he managed the Tax Reform Act, which was even longer than the bill that is now before us and which had a lot of arcane provisions that were hard to understand, some deliberately so and some not.

So I thank the Senator.

Mr. PACKWOOD. I had the advantage that I discovered, in taxation, most people concede they do not know and do not bother you. In health, everyone knows what it is about.

Therefore, the majority leader has to put up with a lot more than I had to put up with.

Mr. MITCHELL. Mr. President, we are prepared to proceed to act on the amendment by voice vote at this point.

Mr. D'AMATO. Mr. President, will the majority leader yield for an observation?

Mr. MITCHELL. Yes.

Mr. D'AMATO. Mr. President, first of all, let me say personally that there is no one I respect more than the majority leader, both as a leader and for the way he conducts himself personally. There is no fairer or finer advocate than the majority leader.

I say that because I do not want my remarks to be misinterpreted, because they may be, and they are, somewhat critical of the process we have engaged in. But we do not pick the process. Events, time, and other circumstances have thrust it upon us.

I could not help but pick up on the leader's remarks about 1986 and the tax bill. Probably in my mind the greatest single mistake that I made—and I have made lots of them in terms of legislation I have voted for or against—was my vote for that 1986 tax bill. I remember coming down on the floor with Senator DODD, my colleague, who I see over here. We fought like the dickens to keep the IRA's from being knocked out. We actually had the votes. And then, because of subtle pressure, et cetera, we lost it.

We should have kept those IRA's. We fought in a bipartisan way. Now, years later, I have seen some of the Senators who worked assiduously to defeat us on that became the sponsors and champions of IRA's, working to reclaim them, to bring them back. I remember that.

I remember provision after provision being worked against. I remember it was fashionable to get the real estate buys. It was, "Let's get 'em." And, by the way, we did it in a retroactively manner. We talk about the disaster that we crated with the banks. We helped bring some of that about because people who had contracts all of the sudden found the tax rules had changed retroactively. It did not matter that they had invested their life's savings. It was, after all, these real estate guys.

I have no problem with saying that prospectively, in the future, we will not longer allow people to get these shelters. Some of those shelters were nonproductive.

Now, why do I say that? Because there were provisions after provisions that I worked to change, and we did not change them. And there were some redeeming features in that bill. If you want to knock out tax relief for wealthy people that is not productive, fine. Do it prospectively, but do not reach back. That was wrong. But we did it because we needed the revenue,

And I have to tell you something, we are doing things here in this bill because we are trying to meet goals and revenue targets. We do not come close to understanding the import of what we are doing in this bill.

And in 1986, I am telling you again, I went down in that well, and I went along with the crowd. I was wrong. And I vowed that when I feel strongly on a subject from now on, I am not going to keep quiet and I am not just going to go with the flow.

And, again, there were redeeming aspects to the bill. I remember tax credits for working people. That is the way that I rationalized it in my mind. I think that was a good part of the 1986 bill. That really was good for working poor people.

To my amazement, the leader voted against that tax bill. And I say to him, it is to his credit. I always said to myself, "Yeah, Senator MITCHELL voted the other way, and I applaud him. He stood up and he voted that way. I wish I had."

Mr. MITCHELL. If the Senator would yield, I thank the Senator for giving me credit, but I think I better make clear that I voted for it.

Mr. D'AMATO. I always thought you voted the other way. I always gave you credit for that.

Mr. MITCHELL. I appreciate the fact that for the past 8 years I have gotten credit for something which I did not do.

Mr. D'AMATO. In my mind, you did. I was always amazed.

Mr. MITCHELL. I thought one thing we better do around here now is correct the RECORD as soon as we can.

Mr. D'AMATO. I was upset with myself for not having gone down there and voted that way. I will not tell you why. I try to do it in my diary. I hope the diary does not lie.

But, it is one of the two incidents that I have cited in terms of lack of courage. It was my lack of courage at that time.

Why do I bring this up? Because, it bears upon the leader's amendment to clarify what was done on page 1432, section 10135, lines 21 through 24. And I understand his clarification.

But I must say, when it comes to an issue, that is as important to the health and welfare of every American and every family as health reform, we should not be thrust in a position, any of us, where we are reading through this voluminous document in this manner.

I do not lay blame upon anyone in this Chamber for our finding ourselves in this circumstance. But I do think we do ourselves and the people great harm if we attempt to proceed and enact legislation in this manner.

And I think the reasons come down to, we find that it is important politically. I think we do damage to the political process—the governmental process—if we insist on pursuing this course.

I believe the whole health care issue has been moved forward in a manner which has already resulted in some substantial improvements, which has already focused attention on some important issues.

I give the President credit for that. I give Mrs. Clinton credit for that. We have seen greater cost containment in certain areas. In the private sector, we have seen hospitals, drug manufacturers, and others undertake certain actions that probably never would have

been taken were it not for the seriousness of purpose that has arisen around addressing this important national issue.

But I implore my friends and colleagues in this body, Democrats and Republicans, to take a step back now and let us see if we cannot continue the process of narrowing our differences, and attempting to come up with a bill that will do the job and not one which is driven by time or by elections; one in which we come together and do the business of the people the right way.

That is the nature of the calls which I am getting from my constituents—not lobbyists, but New Yorkers. And by an overwhelming margin, about 3.1 to 1, the calls that come in are saying, "Yes, we know there is a need for health care. Please don't rush to judgment."

I think this is a rush to judgment.

I yield the floor.

And I thank my distinguished friend and colleague for setting me straight on his 1986 vote.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, we are prepared to proceed to have the amendment adopted.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment offered by the majority leader.

The amendment (No. 2569) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

POSITION ON VOTE 290

Mr. COHEN. Mr. President, I regret that earlier today a medical appointment prevented me from voting on an amendment offered by Senator DASCHLE which sought to expand access to health care in rural areas. Representing a rural State like Maine, I am well aware of the special problems that rural areas face. In fact, the first comprehensive health care bill I introduced in 1990 included a number of provisions to address the health care needs of rural areas. My efforts with respect to health care have routinely included particular focus on the need to expand quality health care services in Maine and other rural States. Accordingly, had I been able to vote, I would have joined my other colleagues in unanimously supporting the Daschle amendment.

FEDERAL EMPLOYEES HEALTH BENEFIT PLAN

Ms. MIKULSKI. Mr. President, I rise today to speak to the importance of opening up the Federal Employees Health Benefit Plan to all Americans and to explain what this decision will mean to Federal employees. I would also like to respond to comments made by the senior Senator from Alaska who said two things that concern me:

First, that Federal employees get less in the standard benefit package; and

Second, that they get a supplemental benefit package not available to others.

Opening up FEHBP is a wise decision. It allows Americans to have access to the very same choice of health insurance plans that we have, that the President has, that Federal employees have.

FEHBP enrolls over 9 million employees and their families. It is a structure that exists everywhere in the country. You can go to Frederick, MD and there are FEHBP enrollees or you can go to Fairbanks, AK and there will be FEHBP enrollees. It is a system which is in place and it works for its enrollees. I am an FEHBP enrollee. I am a Blue Cross/Blue Shield standard option single only. I like my coverage and I think that it is only right that Americans have access to the same health insurance plans.

But while are are opening up FEHBP, I have worked hard to make sure that we are not taking anything away from the Federal employees. When concerns were raised during the Labor Committee markup, I worked with the Federal employee unions to meet those concerns. They said that the bill treated them differently from other Americans and from what I could see they were right.

Why was that?

First, coverage might be lost for some Federal employees.

Second, unlike workers in the private sector, Federal employees could not get a supplemental benefit package to close the gap between what they get in the standard package. Because the Office of Personnel Management is not required to offer supplemental plans to Federal employees, they could end up with less than they have now.

So, I worked with Senator KENNEDY in the Labor Committee markup to resolve these issues. I offered an amendment that was accepted that achieved the following goals:

First, the Federal employees health benefit program must offer a supplemental benefit package;

Second, it allows Federal employee organizations to meet and confer with O.P.M. for these policies and agree upon a contribution toward the premiums; and

Third, it allows any American covered by a health plan offered by FEHBP to buy the FEHBP supplemental plan.

This provision leveled the playing field. Federal employees would have access to supplemental benefit packages that many private sector employees now have access to and would continue to have access to through negotiations with their employers.

We needed to correct this situation and this amendment allowed that. This is the provision that Senator MITCHELL agreed to include in his bill and this is the understanding of the Federal employee unions.

It doesn't mean that the Federal Government will necessarily pay for the supplemental benefits package for Federal employees. Nor does it mean that there will be a Federal contribution to non-Federal FEHBP enrollees who want to purchase a supplemental package.

It simply means that Federal employees, like workers in private industry, can negotiate with their employers to receive a contribution toward a supplemental benefit. Federal employees are just being treated fairly—just like many other Americans.

I hope this clarifies the record. I believe that we should have a health care system for all Americans—that is accessible, affordable, rewards people who play by the rules, and lets people choose their own providers. That is what this provision does. That is why opening up FEHBP is a good idea.

THE BASEBALL STRIKE

Mr. METZENBAUM. Mr. President, there are a lot of games being played here on the floor of the U.S. Senate, but there are not many games being played on the baseball fields in America. There just "ain't no baseball being played in the major leagues these days."

The strike in major league baseball is now 1 week old. There is no sign that millions of baseball fans are likely to see their favorite teams play any time in the near future.

As a matter of fact, the rest of the season, the playoffs, and the World Series are all in serious jeopardy.

We must bring this strike to a speedy resolution. Last week, Senator HATCH and I introduced legislation to do just that. As you would expect, the owners told the media that the Metzenbaum-Hatch bill would not do any good. But the players said nothing. So I called Don Fehr, head of the players association, and asked him what he thought. Last night I received Fehr's response. The way I read this letter it represents a strong indication that this strike could be brought to an early conclusion, and the season could get underway very shortly after we act.

Here is what he said:

> Had S. 2380, the Metzenbaum-Hatch bill, become law prior to the strike, it would have been a major step forward. Indeed, it might well have had a beneficial effect on the negotiations because the owners would have understood that they could not unilaterally impose the salary cap free from antitrust scrutiny. Moreover, the players would have options to consider other than going on strike.
>
> Although one cannot know for certain, it is my best judgment that had S. 2380 been law, it is much less likely that players now would be on strike.

The same letter, I believe, was sent to Senator HATCH.

The players believe that the Metzenbaum-Hatch bill provides the key elements to end this strike. What the bill lacks is a way to protect the more than 600 major league players who could have their pay cut arbitrarily because they do not have contracts for next season while the players challenge the owners in court. The players have a good point which, I am frank to say, we did not consider when crafting this legislation. I do not see any reason why we could not amend our bill to protect players from these arbitrary salary reductions while their labor dispute is worked out in court. According to the players, if Congress passes the Metzenbaum-Hatch bill with this slight modification they are likely to go back to work. Fehr promised that:

If * * * these critical and fundamental problems can be addressed, we would seriously consider asking the players to return to the field while negotiations continue.

This is clearly good news. The head of the players association is telling us that if we pass a bill that applies the antitrust laws when any unilateral conditions are imposed, and protects against automatic salary reductions during an antitrust lawsuit, he might recommend that the players take the field and complete the season.

Our task is obvious. At the appropriate point in time, the Senate should set aside the health care bill just for a few hours—because certainly the national health care bill has far more importance and priority than this matter—but for a few hours to move a bill that would put an end to the baseball strike. I will continue working with Senator HATCH and any other Senator interested in fine-tuning our bill so that we can move quickly.

Frankly, this is the best hope the fans have to preserve the remainder of the baseball season, the playoffs, and the World Series for America's baseball fans.

Mr. President, I ask unanimous consent that the letter from Mr. Fehr be printed in the RECORD.

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

MAJOR LEAGUE
BASEBALL PLAYERS ASSOCIATION,
New York, NY, August 17, 1994.

Hon. HOWARD METZENBAUM,
U.S. Senate, Washington, DC.

DEAR SENATOR METZENBAUM: It was with great interest that I reviewed the bill, S. 2380, the "Baseball Fans Protection Act of 1994", which was recently introduced by you and Senator Hatch in an effort to bring baseball back to the field, and save this season for the fans. More than anyone, the players regret that the owners left them no choice but to strike, and to interrupt a season as great as this one, disappointing fans everywhere, and, unfortunately, affecting individuals employed at or around major league stadiums during the season. The players understand and appreciate very much the ongoing efforts by you and Senator Hatch to bring this matter to resolution as soon as possible.

You have asked that I give you the views of the Major League Baseball Players Association with respect to S. 2380. Moreover, you have asked what legislation would cause the players to consider ending the strike without reaching a new collective bargaining agreement with the owners.

As you know, there has been a strike or lockout in major league baseball every time the MLBPA has negotiated with the owners over the last 22 years. The strike which began last Friday, 12 August, is the eighth consecutive work stoppage in that period. S. 2380 is significant, because it directly addresses the relationship between the owners' antitrust exemption and their collective bargaining relationship with the players. Without question, the unique exemption from the antitrust laws enjoyed by baseball's owners has been, and in the current dispute continues to be, a major contributing factor to this sorry history. The owners are a legal cartel; it is no surprise that they act like one.

Simply put, the owners' position in this year's talks, as it is in every bargaining round, is to insist that the players accept substantial restraints on the free market for employment of players, designed to limit players' freedom to seek employment and to artificially depress the free market value of players. And the owners so insist because they are secure in the knowledge that, due to their exemption from the antitrust laws, no terms or conditions of employment that they can force upon the players, or unilaterally impose following an impasse in bargaining, may be challenged under the antitrust laws, no matter how unreasonably anticompetitive those terms and conditions may be.

It is this freedom from the antitrust laws—the antitrust laws are in place everywhere else except in highly regulated industries—which gives the owners the incentive to continue to act as they have. They have monopoly power; why should anyone expect them not to use it? In other industries, and in particular in the other professional team sports, this is not the case. Rather, as those owners know, and indeed, as the NFL owners recently learned, sooner or later their actions are subject to antitrust review. Baseball's owners have no such worries.

In the ordinary circumstance under our labor laws, should bargaining fail, management can lock out or, assuming a valid impasse in bargaining, unilaterally impose terms and conditions of employment consistent with its bargaining position. Should that occur, the employees can strike and/or, if the terms would otherwise violate the antitrust laws, seek court review. In the current situation, the owners have made it clear that they intend to impose their salary cap in the off-season. Needless to say, the players can neither strike in November nor challenge the cap under the antitrust laws. Hence, as in past years, the players' only option was to strike.

Had S. 2380 become law prior to the strike, it would have been a major step forward. Indeed, it might well have had a beneficial effect on the negotiations because the owners would have understood that they could not unilaterally impose the salary cap free from antitrust scrutiny. Moreover, the players would have options to consider other than going on strike. Although one cannot know for certain, it is my best judgment that had S. 2380 been law, it is much less likely that players now would be on strike. If the owners had been required to consider the antitrust laws when they formulated their proposal to the union, and if the players had known that they had protection under the antitrust laws, the result might well have been different.

We are, however, not at that point. S. 2380 is not law; the owners are committed to the salary cap, and clearly intend to impose it after the season; and a strike has begun. Even were S. 2380 to be now enacted, it would be very difficult to ask players to end the strike without an agreement. That would permit the owners to impose the salary cap in the off-season, with the players' only remedy being a suit of indefinite duration filed after the cap was imposed, leaving the players stuck with the cap during the pendency of the litigation (unless they determined to go on strike next season). In the interim, all of the new player contracts would be negotiated under the owners' unilaterally imposed rules. (There are more than 600 major league players who do not have contracts for next season.) One cannot expect the players to put themselves in that position. Moreover, S. 2380 would apply only to this current dispute, leaving the players—and the fans—in the same boat next time.

If, however, these critical and fundamental problems can be addressed, we would seriously consider asking the players to return to the field while negotiations continue. Absent the assurance that new contracts will be signed under the provisions of the prior agreement, rather than under any unilaterally imposed terms and conditions, the players will not give up, even temporarily, the only recourse that the Congress has provided for them. And the players are fully prepared to stay on strike as long as is necessary to secure an appropriate new agreement.

Finally, I note that several fan and consumer groups (such as Sports Fans United and the Consumer Federation of America, among others) have today once again indicated their view that the Congress should act to eliminate the owners' antitrust exemption, and that in their view, the exemption is a major contributing cause to the current strike. It is worth remembering that, so far as I am aware, no fan, consumer or public interest group takes a different view.

Needless to say, I would be pleased to answer any further questions you may have, and to work with you and Senator Hatch on the precise details of any such legislation.

Sincerely,

DONALD M. FEHR.

Mr. METZENBAUM. Mr. President, I say to my colleague and friend from New York, I am very grateful for him permitting me to have a few minutes for the interruption of a more important debate on the health care bill.

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

The PRESIDING OFFICER. The majority leader suggests the absence of a quorum.

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.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes.

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

MESSAGES FROM THE HOUSE

At 2:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 4906. An Act to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation.

The message also announced that the House insists upon its amendments to the bill (S. 1485), a bill to extend certain satellite carrier compulsory licenses, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. BROOKS, Mr. HUGHES, Mr. SYNAR, Mr. BOUCHER, Mr. FRANK of Massachusetts, Mr. MOORHEAD, Mr. COBLE, and Mr. FISH as the managers of the conference on the part of the House.

At 3:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4603), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for these departments and agencies for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced, that the Speaker makes the following modification in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1587) entitled "An Act to revise and streamline the acquisition laws of the Federal Government, and for other purposes":

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 4024(g), 6003 (a)(4) and (b)(4), and 8005(c)(6) of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. SWIFT, and Mr. MOORHEAD.

ENROLLED BILLS SIGNED

At 8:09 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2947. An act to extend for an additional two years the authorization of the Black Revolutionary War Patriots Foundation to establish a memorial; and

H.R. 4790. An act to designate the United States courthouse under construction in St. Louis, Missouri, as the "Thomas F. Eagleton United States Courthouse."

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 4906. An act to amend the Congressional Budget and Impoundment Control Act of 1974 to limit consideration of nonemergency matters in emergency legislation; referred jointly, pursuant to the order of August 4, 1977, to the Committee on the Budget, and to the Committee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 2380. A bill to encourage serious negotiations between the major league baseball players and the owners of major league baseball in order to prevent a strike by the players or a lockout by the owners so that the fans will be able to enjoy the remainder of the baseball season, the playoffs, and the World Series.

S. 2381. A bill to require the Secretary of Health and Human Services to provide health care fraud and abuse guidance, and for other purposes.

S. 2396. A bill entitled the "Affordable Health Care Now Act."

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-3230. A communication from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notice relative to military personnel accounts for fiscal year 1995; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1975, to the Committee on Appropriations, to the Committee on Budget, and to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.R. 4228. A bill to extend Federal recognition to the United Auburn Indian Community of the Auburn Rancheria of California (Rept. No. 103-340).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 215. A concurrent resolution honoring James Norman Hall and recognizing his outstanding contributions to the United States and the South Pacific.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1329. A bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Judith A. Miller, of Ohio, to be General Counsel of the Department of Defense;

Walter Becker Slocombe, of the District of Columbia, to be Under Secretary of Defense for Policy;

Sandra Kaplan Stuart, of North Carolina, to be an Assistant Secretary of Defense;

Jan Lodal, of Virginia, to be Deputy Under Secretary of Defense for Policy;

Joseph Nye, of Massachusetts, to be an Assistant Secretary of Defense; and

Philip Edward Coyle, III, of the District of Columbia, to be Director of Operational Test and Evaluation, Department of Defense.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Neil H. Offen, of the District of Columbia, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 1998;

Ralph Earle, II, of the District of Columbia, to be Deputy Director of the United States Arms Control and Disarmament Agency;

Richard Holbrooke, of New York, to be an Assistant Secretary of State;

Richard L. Greene, of Maryland, to be Chief Financial Officer, Department of State;

Phyllis E. Oakley, of Louisiana, to be an Assistant Secretary of State; and

Brady Anderson, of Arkansas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Nominee: Brady Anderson.

Post: Ambassador to Tanzania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, $200, June 1992, Bill Clinton.
2. Spouse, none.
3. Children and spouses: Helen L. Anderson, none (both children are unmarried); Elizabeth H. Anderson, None.
4. Parents: Joe L. Anderson, deceased—1978; Maurine T. Anderson, none.
5. Grandparents: Stonewall Anderson, deceased—1950; Nora B. Anderson, deceased—1982; Harvey Thorn, deceased—1963; Sadie Thorn, deceased—1976.
6. Brothers and spouses: I have no brothers.
7. Sisters and spouses: Jon Anderson Purifoy, $500, Oct. 1991-Apr. 1992, Bill Clinton; Philip B. Purifoy, none.

Robert L. Gallucci, of Virginia, a Career Member of the Senior Executive Service, to be Ambassador at Large.

Nominee: Robert L. Gallucci.

Post: Ambassador at Large.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Jennifer Sims, none.

3. Children and spouses: Jessica, 13 and Nicholas, 11 (Gallucci), none.

4. Parents: Mae Gallucci, none.

5. Brothers and spouses: Betty and Vincent Gallucci, $50.00 to Democratic Party; $50.00 to Senator McDermott.

Eileenn A. Malloy, of Connecticut, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kyrgyz Republic.

Nominee: Eileen A. Malloy.

Post: Bishkek, Kyrgyzstan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Jim McLachlan, none.

3. Children and spouses: Mary Kathryn Paegle, and Christina McLachlan, none.

4. Parents: John and Helen Malloy, $100 a year each, National Republican Party.

5. Grandparents: Joseph E Malloy, deceased—died 1940's; Kathryn Langan, deceased—died 1984.

6. Brothers and spouses: Not available.

7. Sisters and spouses: Kathryn Malloy O'Dell, none; Bo O'Dell, none.

I also have four step-sisters with whom I have no contact.

Curtis Warren Kamman, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bolivia.

Nominee: Curtis Warren Kamman.

Post: Ambassador to Bolivia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, Mary C. Kamman, none.

3. Children and spouses: Edward Kamman and Esta Salmon, none; John Kamman and Nichole Becker, none; W. Stephen Kamman, $55, Aug. 1, 1990, NC, Democratic Party.

4. Parents: Mildred Kamman, none; Glenn Kamman, $25, Jan. 4, 1990 GOP Victory Fund; Glenn Kamman, $35, Jan. 14, 1991, Republican National Committee.

5. Grandparents: Horace Kamman, deceased, none; Warren Merry, deceased, none, Bertha Kamman, none; Ella Merry, deceased, none.

6. Brothers and spouses: Jonathan Kamman and Beverly Medlyn, none; Robert Kamman, none.

7. Sisters and spouses: No sisters.

E. Michael Southwick, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

Nominee: Southwick, E. Michael.

Post: Nairobi.

Nominated: Not yet nominated: Advised of possible nomination January 1994.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self: E. Michael Southwick, none.

2. Spouse: Susan Southwick, none.

3. Children and spouses: Edward M. Southwick, Andrew D. Southwick, Katherine G. Southwick, none married, none.

4. Parents: Gertrude R. Southwick, none.

5. Grandparents: None living.

6. Brothers and spouses: John O. Southwick (Dixie), Monte R. Southwick (Audrey), William Ray Southwick (Linda), Fred Dean Southwick (Jayne), none.

7. Sisters and spouses: Mrs. Kimber Johnson (Diane), and Mr. Kimber Johnson, none.

Dorothy Myers Sampas, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Nominee: Dorothy M. Sampas.

Post: American Embassy Nouakchott, Mauritania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self: Dorothy M. Sampas, none.

2. Spouse: James G. Sampas, $50, Apr. 13, 1992, Tsongas Committee; $100, June 1, 1993, Tsongas Committee.

3. Parents: Mrs. Lawrence Myers, none; Mr. Lawrence Myers, deceased.

4. Grandparents: Mr. and Mrs. Otto F. Henkel, deceased; Mr. and Mrs. George Myers, deceased.

5. Brothers and spouses: No brothers.

6. Sisters and spouses: Mr. and Mrs. James Rast, none.

7. Children and spouses: Lawrence Sampas, $50, spring 1992, Tsongas Committee; $50, summer 1992, Clinton Campaign; $450, December 1992, Presidential Inaugural Committee (2 tickets); $24, Jan. 24, 1993, Montgomery County Democratic Action Committee; $40, Sept. 6, 1993, Maryland Democratic Party; $35, Oct. 3, 1993, Maryland Democratic Party; $50, Oct. 3, 1993, Democratic National Committee Federal Account; $49, Nov. 7, 1993, Montgomery County (Maryland), Democratic Central Committee; $50, Dec. 4, 1993, Democratic National Committee Federal Account; $100, Apr. 28, 1993, Montgomery County (Maryland) Democratic Central Committee (2 tickets, spring ball).

Carl Burton Stokes, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Nominee: Carl B. Stokes.

Post: Seychelles.

Nominated: Dec. 17, 1993.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses: Cordell and Laura Stokes, none; Cordi Stokes McBee, (divorced), none; Carl B. Stokes, Jr., none.

4. Parents: Charles and Louise Stokes, deceased.

5. Grandparents: Fannie and Dock Stone, deceased.

6. Brothers and spouses: Congress Louis Stokes,—See Attached

LOUIS STOKES FOR CONGRESS COMMITTEE CONTRIBUTIONS TO FEDERAL CAMPAIGNS, 1990 THRU 1993

Yates for Congress Committee, Sidney R. Yates, U.S. House, 9th District–IL, $500.00, 2/9/90.

Committee to elect Harold E. Ford, U.S. House, 9th District–TN, $1,000.00, 2/9/90; $1,000.00, 3/13/93.

Bonior for Congress Committee, David E. Bonior, U.S. House, 12th District–MI; $500.00, 6/25/90.

Eleanor Holmes Norton for Congress Committee, U.S. House, Delegate–D.C., $500.00, 7/10/90.

Committee to Re-Elect Floyd E. Flake, U.S. House, 6th District–NY, $1,000.00, 8/10/90, $1,000.00, 4/18/91.

Harvey Gantt for U.S. Senate, (NC), $1,000.00, 11/5/90.

Committee to Re-Elect Charles Hays, U.S. House, 1st District–IL, $1,000.00, 2/25/92.

Gus Savage for Congress Committee, U.S. House, 2nd District–IL, $300.00, 2/28/92.

Eva Clayton for Congress Committee, U.S. House, 1st District–NC, $500.00, 5/28/92.

Oakar for Congress Committee, Mary Rose Oakar, U.S. House, 10th District–OH, $1,000.00, 5/19/92.

Friends of David Strand, U.S. House, 6th District–CA, $500.00, 5/29/92.

Carol Moseley-Braun for U.S. Senate, IL, $1,000.00, 8/1/92.

Richard Ray for Congress Committee, U.S. House, 3rd District–GA, $300.00, 12/11/92.

Friends of Bennie Thompson, U.S. House, 2nd District–MS, $500.00, 4/7/93.

7. Sisters and Spouses: No sisters.

James W. Swihart, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lithuania.

Nominee; James W. Swihart, Jr.

Post: Vilnius, Lithuania.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. James W. Swihart, Jr., none.

2. Spouse, Ellen C. Swihart, none.

3. Children and spouses: Jennifer A. Swihart, none; Christopher J. Swihart, none.

4. Parents: James W. Swihart, Sr., deceased; Mary Ruth Inge Swihart, deceased.

5. Grandparents: Homer D. Swihart and Hazel S. Swihart, deceased; John Inge and Ruth Inge, deceased.

6. Sisters and spouses: Susanna Swihart Armstrong and Peter Armstrong, deceased, none; Melinda Cox Swihart, none; Mignon Swihart Gregg and Jerry, Gregg, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and

testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of July 17, 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.

(The nominations ordered to lie on the secretary's desk were printed in the RECORD of July 27, 1994 at the end of the Senate proceedings.)

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. RIEGLE (for himself, Mr. FEINGOLD, Mr. SIMON, Mrs. BOXER, Ms. MOSELEY-BRAUN, and Mr. BREAUX):

S. 2402. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DANFORTH (for himself, Mr. BOND, Mr. DOLE, and Mrs. KASSEBAUM):

S. 2403. A bill to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact; to the Committee on the Judiciary.

By Mr. LOTT:

S. 2404. A bill for the relief of John T. Monk; to the Committee on Veterans Affairs.

By Mr. FEINGOLD:

S. 2405. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON (for herself and Mr. HATCH):

S. 2406. A bill to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes; considered and passed.

By Mr. HEFLIN (for himself, Mr. BIDEN, Mr. HATCH, Mr. GRASSLEY, and Mr. SPECTER):

S. 2407. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself, Mr. FEINGOLD, Mr. SIMON, Mrs. BOXER, and Ms. MOSELEY-BRAUN):

S. 2402. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE HOMEOWNERS INSURANCE DISCLOSURE ACT

• Mr. RIEGLE. Mr. President, today I rise to introduce the Homeowners Insurance Disclosure Act of 1994, a bill aimed at making homeowners insurance available, affordable, and accessible to all Americans. This bill will help us determine which insurance companies refuse to provide coverage merely due to location, charge more for insurance coverage, or offer restricted coverage without justification.

Many urban areas have insurance problems because of insurance discrimination based on the racial and socioeconomic characteristics of a geographic area. This phenomenon is known as redlining. As the chairman of the Committee on Banking, Housing, and Urban Affairs, I have come to understand the inextricable link between financial services, like insurance, and housing. As one Federal judge has written: "lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable."

That is why we have included provisions in virtually every bill the committee has passed during my chairmanship to ensure that credit is available to all communities. The committee included provisions in the Financial Institutions Reform, Recovery, and Enforcement Act, and amended the Home Mortgage Disclosure Act to require regulators to notify the Justice Department about instances of lending discrimination. And we have also held hearings to make sure that fair lending laws are being enforced aggressively and effectively. Since lenders require their borrowers to secure property insurance, addressing homeowners insurance discrimination is a logical progression of the committee's efforts to guarantee not only an adequate flow of capital into distressed communities, but also access to financial services.

The bill that I am introducing today is patterned after the highly successful Home Mortgage Disclosure Act and would require the disclosure by insurance companies of the type, cost, and location of policies by census tract in 100 urban areas and by 5-digit zip code in 25 rural areas across the Nation. The bill would also require the disclosure of loss data, which is critical in determining whether differences in premium costs are due to actual losses or racial and ethnic stereotypes. The bill does not preempt States from imposing more stringent requirements and would exempt companies from Federal reporting standards if those that are prescribed by the State are equivalent or higher. Finally, the bill merely requires insurance companies to provide data similar to what they are already giving to the National Association of Insurance Commissioners, but which is not currently available to the Federal Government.

Although the Fair Housing Act of 1968 banned redlining, this problem has been ongoing for the last 26 years. The issue first gained attention after a series of urban riots in the late 1960's, inducing the Federal Government to create the National Advisory Panel on Insurance. The Panel's reported noted that:

> Insurance is essential to revitalize our cities. It is a cornerstone of credit. Without insurance, banks and other financial institutions cannot make loans. New housing cannot be constructed and existing housing cannot be repaired.
>
> New businesses cannot be opened and existing businesses cannot expand, or even survive. Without insurance, buildings are left to deteriorate; services, goods, and jobs diminish. Efforts to rebuild our nation's inner cities cannot move forward. Communities without insurance are communities without hope.

The Panel concluded that there was a serious lack of property insurance in these inner cities, and that this shortage had been exacerbated by the recent riots. It recommended the creation of State-run Fair Access to Insurance Requirements [FAIR] programs for residents of high risk neighborhoods who are unable to purchase insurance in the voluntary market, and a Federal program to protect against loss due to riots. Numerous States responded and developed FAIR plans.

Unfortunately, problems persisted. In 1974, the Federal Insurance Administration noted that the FAIR plans were being used to "relegate significant numbers of risks to second-class coverage, treatment, and cost on the basis of arbitrary underwriting judgments that ultimately benefited neither the consumer nor the insurer." Similarly, in 1978, HUD issued a report which concluded that redlining was widely practiced by insurers, that it had an "undeniable racial component," and that the practice "was not based on any sound underwriting standards but rather on highly subjective criteria that would appear to result from unfounded generalizations or preconceptions about urban property risks."

Federal efforts to address redlining languished during the Reagan-Bush era, but the issue reemerged in 1992 when the Los Angeles riots revealed potential problems with the availability and affordability of insurance. This committee heard testimony about the tremendous shortage of property insurance in the Los Angeles area, including the California Department of Insurance's finding that 61 percent of the businesses damaged in the riots after the Rodney King verdict were uninsured because coverage was too expensive or not available. An additional 4 percent said the agent that they contacted would not quote rates in their area.

But the problem is not confined to California alone. At a hearing before the Committee on May 11, 1994, we heard testimony about how one insurer drew a line around the entire city of St. Louis and labeled it "ineligible property." In addition, we learned that testers from the National Fair Housing Alliance experienced discrimination while seeking homeowners insurance 47 percent of the time in Louisville, 60 percent of the time in Atlanta and Milwaukee, and an incredible 95 percent of the time in Chicago.

In Milwaukee, a district sales manager of a large insurance company was taped giving the following advice to several subordinates:

> Very honestly, I think you write too many blacks. * * * You gotta sell good, solid, premium paying white people * * *. They own their homes, the white works * * * . Very honestly, black people will buy anything that looks good right now * * * but when it comes to pay for it next time * * * you're not going to get your money out of them * * *. The only way you're going to correct your persistency is to get away from blacks.

Other States have their fair share of problems. In Georgia, insurance regulators are investigating charges of insurance discrimination. Texas recently fined Allstate $850,000 for discriminatory practices, and the Ohio Insurance Department fined Farmers Insurance for determining rates by ZIP Codes instead of by municipality, which led to underpricing insurance in the suburbs. In the Washington metropolitan area, some current and former employees, as well as a local chapter of the NAACP, recently alleged that GEICO, a local insurance company, systematically screens out blacks. In one instance, a supervisor of one of these employees said that the owner of a large house and several luxury cars in southeast Washington, "must be a drug dealer."

Numerous studies have documented this widespread discrimination against low-income minorities. One study performed by the Missouri Department of Insurance indicated that policy holders in certain minority low-income ZIP Codes in St. Louis and Kansas City paid significantly more than policy holders in white low-income ZIP Codes, and that substantially more of the policies sold in the minority low-income ZIP Codes were limited policies compared to those sold in low-income white ZIP Codes. At the same time, insurers paid more in claims in the white low-income neighborhoods than in minority low-income neighborhoods. In other words, residents of minority low-income ZIP Codes paid more for their insurance, but received less comprehensive coverage and were paid fewer claims than residents in white low-income ZIP Codes.

A study released in February 1993 by ACORN, analyzing by ZIP Code St. Louis, Kansas City, Milwaukee, Chicago, and Minneapolis-St. Paul, found that homeowners in inner city neighborhoods were underinsured as compared to those in wealthier areas, and housing units in minority areas were less likely to be insured than those in predominantly white areas of comparable income levels. Moreover, the study showed that insurance agents are five times less likely to offer inner city homeowners a chance to buy insurance than they are residents of high-income areas.

The Texas Office of the Public Insurance Counsel also released its own report on redlining in automobile insurance. It found that Houston drivers in predominantly minority ZIP Codes paid higher premiums for liability insurance, not including theft and vandalism, relative to drivers with the same driving records in predominantly white ZIP Codes. The office also discovered underwriting guidelines that excluded applicants on the basis of marital status and place of birth, as well as those that mandated minimum coverage amounts of $70,000, even though median house value in the State is $42,500.

And finally, the General Accounting Office recently issued a report noting that most currently available data are not useful in determining whether availability, affordability, and accessibility problems in fact exist. The report concluded that:

> Data that are collected for homeowners insurance will be more useful in examining availability and affordability once the data are collected on a ZIP-Code level (beginning in 1994) and analyzed in conjunction with Census Bureau data. However, data on accessibility are not collected. Reducing the size of the reporting unit to census tracts would, in most cases, increase the value of data by enabling more homogeneous units to be analyzed.

The report stated further that "to review affordability-related issues, premium and coverage amounts as well as loss data would be needed." Accessibility determinations would require data "on marketing activities and agents' locations." And availability could be determined with information on "the number of properties insured, by company and by type of policy." The Homeowners Insurance Disclosure Act would provide exactly the type of information that the GAO requests.

This persistant form of discrimination demands immediate congressional action. There are those who have realized this need already, and I commend Representatives COLLINS and KENNEDY and Senators FEINGOLD and BRYAN for their leadership on this very important subject. I urge my colleagues to support this bill so that we can make affordable homeowners insurance a reality for all Americans.

I ask that the text of the legislation be printed in the RECORD.

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

S. 2402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeowners Insurance Disclosure Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Establishment of general requirements to submit information.
Sec. 4. Reporting of noncommercial insurance information.
Sec. 5. Study of commercial insurance for residential properties and small businesses.
Sec. 6. Reporting of rural insurance information.
Sec. 7. Waiver of reporting requirements.
Sec. 8. Reporting by private mortgage insurers.
Sec. 9. Use of data contractor and statistical agents.
Sec. 10. Submission of information to secretary and maintenance of information.
Sec. 11. Compilation of aggregate information.
Sec. 12. Availability and access system.
Sec. 13. Designations.
Sec. 14. Improved methods and reporting on basis of other areas.
Sec. 15. Annual reporting period.
Sec. 16. Disclosures by insurers to applicants and policyholders.
Sec. 17. Enforcement.
Sec. 18. Reports.
Sec. 19. Task force on agency appointments.
Sec. 20. Studies.
Sec. 21. Exemption and relation to State laws.
Sec. 22. Regulations.
Sec. 23. Definitions.
Sec. 24. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are disparities in insurance coverage provided by some insurers between areas of different incomes and racial composition; and

(2) such disparities in affordability and availability of insurance severely limit the ability of qualified consumers to obtain credit for home and business purchases.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a nationwide database for determining the availability, affordability, and adequacy of insurance coverage for consumers;

(2) to facilitate the enforcement of Federal and State laws that prohibit illegally discriminatory insurance practices; and

(3) to determine whether the extent and characteristics of insurance availability, affordability, and coverage require public officials to take any actions—

(A) to remedy redlining or other illegally or unfairly discriminatory insurance practices; or

(B) to promote insurance availability and affordability in areas underserved by insurers.

(c) CONSTRUCTION.—Nothing in this Act is intended to, nor shall it be construed to, encourage unsound underwriting practices.

SEC. 3. ESTABLISHMENT OF GENERAL REQUIREMENTS TO SUBMIT INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to compile and submit information to the

Secretary for each annual reporting period, in accordance with this Act.

(b) CONSULTATION.—In establishing the requirements for the submission of information under this Act, the Secretary shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents), representatives of property and casualty insurers, and community, consumer, and civil rights organizations, as appropriate.

SEC. 4. REPORTING OF NONCOMMERCIAL INSURANCE INFORMATION.

(a) IN GENERAL.—The requirements established pursuant to section 3 to carry out this section shall—

(1) be designed to ensure that information is submitted and compiled under this section as may be necessary to permit analysis and comparison of—

(A) the availability and affordability of insurance coverage and the quality or type of insurance coverage, by MSA and the applicable region, race, and gender of policyholders; and

(B) the location of the principal place of business of insurance agents and the race of such agents, and the location of the principal place of business of insurance agents terminated and the race of such agents, by MSA and applicable region; and

(2) specify the data elements required to be reported under this section and require uniformity in the definitions of the data elements.

(b) DESIGNATED INSURERS.—

(1) AGGREGATE INFORMATION.—The regulations issued under section 3 shall require that each designated insurer for a designated line of insurance under section 13(c)(1) compile and submit to the Secretary, for each annual reporting period—

(A) the total number of policies issued in such line, total exposures covered by such policies, and total amount of premiums for such policies, by designated line and by designated MSA and applicable region in which the insured risk is located;

(B) the total number of cancellations and nonrenewals (expressed in terms of policies or exposures, as determined by the Secretary), by designated line and by designated MSA and applicable region in which the insured risk is located;

(C) the total number and racial characteristics of—

(i) licensed agents of such insurer selling insurance in the designated line, by designated MSA and applicable region in which the agent's principal place of business is located; and

(ii) such agents who were terminated by the insurer, by designated MSA and applicable region in which the agent's principal place of business was located; and

(D) for such designated line of insurance, information that will enable the Secretary to assess the aggregate loss experience for the insurer, by designated MSA and applicable region in which the insured risk is located.

(2) SPECIFICATION OF INFORMATION FOR ITEMIZED DISCLOSURE.—

(A) IN GENERAL.—The regulations issued under section 3 regarding annual reporting requirements for designated insurers for a designated line of insurance under section 13(c)(1) shall, with respect to policies issued under the designated line or exposure units covered by such policies, as determined by the Secretary—

(i) specify the data elements that shall be submitted;

(ii) provide for the submission of information on an individual insurer basis;

(iii) provide for the submission of the information with the least burden on insurers, particularly small insurers, and insurance agents;

(iv) take into account existing statistical reporting systems in the insurance industry;

(v) require reporting by MSA and applicable region in which the insured risk is located;

(vi) provide for the submission of information that identifies the designated line and subline or coverage type;

(vii) provide for the submission of information that distinguishes policies written in a residual market from policies written in the voluntary market;

(viii) specify—

(I) whether information shall be submitted on the basis of policy or exposure unit; and

(II) whether information, when submitted, shall be aggregated by like policyholders with like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported;

(ix) provide for the submission of information regarding the number of cancellations and nonrenewals of policies under the designated line by MSA and applicable region in which the insured risk is located, by race and gender of the policyholder (if known to the insurer), and by whether the policy was issued in a voluntary or residual market; and

(x) provide for the submission of information on the racial characteristics and gender of policyholders at the level of detail comparable to that required by the Home Mortgage Disclosure Act of 1975 (and the regulations issued thereunder).

(B) RULES REGARDING OBTAINING RACIAL INFORMATION.—With respect to the information specified in subparagraph (A)(x), applicants for, and policyholders of, insurance may be asked their racial characteristics only in writing. Any such written question shall clearly indicate that a response to the question is voluntary on the part of the applicant or policyholder, but encouraged, and that the information is being requested by the Federal Government to monitor the availability and affordability of insurance. If an applicant for, or policyholder of, insurance declines to provide such information, the agent or insurer for such insurance may provide such information.

(3) RULE FOR REPORTING BY DESIGNATED INSURERS.—A designated insurer for a designated line shall submit—

(A) information required under subparagraphs (A), (B), and (D) of paragraph (1) and information required pursuant to paragraph (2), for risks insured under such line that are located within each designated MSA, any part of which is located in a State for which the insurer is designated; and

(B) information required under paragraph (1)(C) for agents within such designated MSA's.

(c) NONDESIGNATED INSURERS.—The regulations issued under section 3 shall require each insurer that issues an insurance policy in a designated line of insurance under section 13(c)(1) that covers an insured risk located in a designated MSA and which is not a designated insurer for the line in any State in which any part of such MSA is located, to compile and submit to the Secretary, for each annual reporting period—

(1) the total number of policies issued in such line;

(2) the total exposures covered by such policies; and

(3) the total amount of premiums for such policies;

by designated MSA and applicable region in which the insured risk is located.

SEC. 5. STUDY OF COMMERCIAL INSURANCE FOR RESIDENTIAL PROPERTIES AND SMALL BUSINESSES.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

(b) SUBMISSION OF INFORMATION.—To acquire information for the study under this section, the Secretary shall, by regulation, establish requirements for insurers providing commercial insurance for residential properties and small businesses to compile and submit to the Secretary on an annual basis information regarding such insurance, as follows:

(1) MSA'S.—The Secretary shall carry out the study only with respect to the 25 MSA's having the largest populations, as determined by the Secretary and specified in the regulations under this section.

(2) INSURERS.—For each of the MSA's specified pursuant to paragraph (1), the Secretary shall designate the insurers required to submit the information. The Secretary shall designate a sufficient number of insurers to provide a representative sample of the insurers providing such insurance in each such MSA.

(3) LINES OF INSURANCE.—The Secretary shall require the submission of information regarding such lines, sublines, or coverage types of commercial insurance as the Secretary determines are necessary or important with respect to establishing, operating, or maintaining residential properties and each type of small business selected under paragraph (4), and shall require submission of such information by such lines, sublines, or coverage types.

(4) SMALL BUSINESSES.—For purposes of paragraph (3), the Secretary shall determine the types of businesses that are typical of small businesses and shall select a representative sample of such types.

(5) DATA ELEMENTS.—The Secretary shall identify the data elements required to be submitted.

(6) SUBMISSION BY LOCATION.—The Secretary shall require the information to be submitted by designated MSA and applicable region in which the insured risk is located.

(7) SUBMISSION BY INSURER.—The Secretary shall require the submission of information on an individual insurer basis and shall specify whether information, when submitted, shall be aggregated by like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported.

(8) SUNSET.—The Secretary shall require the submission of information under this section only for each of the first 5 annual reporting periods beginning more than 3 years after the date of enactment of this Act.

(c) CONSIDERATIONS.—In establishing the requirements for submission of information under this section, the Secretary shall—

(1) take into consideration the administrative, paperwork, and other burdens on insurers and insurance agents involved in complying with the requirements of this section;

(2) minimize the burdens imposed by such requirements with respect to such insurers and agents; and

(3) take into consideration existing statistical reporting systems in the insurance industry.

(d) REPORT.—Not later than 6 months after the expiration of the fifth of the 5 annual reporting periods referred to in subsection (b)(8), the Secretary shall submit a report to the Congress describing the information submitted under the study conducted under this section and any findings of the Secretary from the study regarding disparities in the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

SEC. 6. REPORTING OF RURAL INSURANCE INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to annually compile and submit to the Secretary information concerning the availability, affordability, and quality or type of insurance in designated rural areas in the lines designated under section 13(c)(1).

(b) CONTENT.—The regulations under this section shall provide that—

(1) the information to be compiled and submitted under this section by designated insurers and insurers that are not designated insurers shall be of such types, data elements, and specificity that is as identical as possible to the types, data elements, and specificity of information required under this Act of designated and nondesignated insurers, respectively, for designated MSA's and shall be subject to the provisions of section 4(b)(2)(B); and

(2) the information compiled and submitted under this section shall be compiled and submitted on the basis of each 5-digit zip code in which the insured risks are located, rather than on the basis of designated MSA and applicable region (as otherwise required in this Act).

(c) DESIGNATION OF RURAL AREAS.—For purposes of this section, the term "designated rural area" means the following:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this section apply, any of the 25 rural areas designated by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, a rural area for which a designation made by the Secretary under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate 25 rural areas as designated rural areas for each such 5-year period and shall designate such rural areas based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of rural areas for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 18(b) relating to such period.

(D) The designations of rural areas for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of a rural area shall remain in effect until a succeeding designation of rural areas under paragraph (2) takes effect.

SEC. 7. WAIVER OF REPORTING REQUIREMENTS.

(a) WAIVER FOR STATES COLLECTING EQUIVALENT INFORMATION.—

(1) AUTHORITY.—Subject to the requirements under this section, the Secretary shall provide, by regulation, for the waiver of the applicability of the provisions of sections 4, 5, and 6 for each insurer transacting business within a State referred to in paragraph (2), but only with respect to information required to be submitted under such sections that relates to agents or insured risks located in the State.

(2) REQUIREMENTS.—The Secretary may make a waiver pursuant to paragraph (1) only with respect to a State that the Secretary determines has in effect a law or other requirement that—

(A) requires insurers to submit to the State information that is the same as or equivalent to the information that is required to be submitted to the Secretary pursuant to sections 4, 5, and 6;

(B) provides for adequate enforcement of such law or other requirements;

(C) provides for the same annual reporting period used by the Secretary under this Act and for submission of the information to the Secretary in a timely fashion, as determined by the Secretary; and

(D) provides that, to the extent statistical agents are permitted to submit information to the State on behalf of insurers, such agents are subject to the same or equivalent requirements as provided under section 9(b).

(3) DURATION.—A waiver pursuant to paragraph (1) may remain in effect only during the period for which the State law or other requirement under paragraph (2) remains in effect.

(b) MULTIPLE-STATE MSA'S.—In the case of any designated MSA that contains area within—

(1) any State for which a waiver has been made pursuant to subsection (a); and

(2) any State for which such a waiver has not been made;

the provisions of this Act requiring submission of information to the Secretary regarding such MSA shall be considered to apply only to the portion of such MSA that is located within the State for which such a waiver has not been made.

(c) AUTHORITY FOR SECRETARY TO OBTAIN INFORMATION DIRECTLY FROM INSURERS.—If the State for which a waiver has been made pursuant to subsection (a) does not submit to the Secretary the information required under subsection (a)(2)(A) or submits information that is not complete, the Secretary shall require the insurers transacting business within the State to submit such information directly to the Secretary.

SEC. 8. REPORTING BY PRIVATE MORTGAGE INSURERS.

(a) HMDA REPORTING.—On an annual basis, the Federal Financial Institutions Examination Council (hereafter in this section referred to as the "Council") shall determine the extent to which each insurer providing private mortgage insurance is making available to the public and submitting to the appropriate agency information regarding such insurance that is equivalent to the information regarding mortgages required to be reported under the Home Mortgage Disclosure Act of 1975.

(b) REPORTING UNDER THIS ACT.—

(1) CERTIFICATION OF NONCOMPLIANCE.—If, for any annual period referred to in subsection (a), the Council determines that any insurer providing private mortgage insurance is not making available to the public or submitting the information referred to in subsection (a) or that the information made available or submitted is not equivalent information as described in subsection (a), then the Council shall notify the insurer of such noncompliance. If, after the expiration of a reasonable period of time, the insurer has not remedied such noncompliance to the satisfaction of the Council, then the Council shall immediately certify such noncompliance to the Secretary.

(2) REQUIREMENT.—Upon the receipt of a certification under paragraph (1), the Secretary shall, by regulation, require such insurer to submit to the Secretary information regarding such insurance that complies with the provisions of section 4 that are applicable to such insurance. Such regulations shall be issued not later than 6 months after receipt of such certification and shall apply to the first succeeding annual reporting period beginning not less than 6 months after issuance of such regulations and to each annual reporting period thereafter.

SEC. 9. USE OF DATA CONTRACTOR AND STATISTICAL AGENTS.

(a) DATA COLLECTION CONTRACTOR.—The Secretary may contract with a data collection contractor to collect the information required to be maintained and submitted under sections 4, 5, 6, 7, and 8(b), if the contractor agrees to collect the information pursuant to the terms and conditions of such sections and this Act and the regulations issued thereunder. Information submitted to such contractor shall be available to the public to the same extent as if the information were submitted directly to the Secretary.

(b) USE OF STATISTICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, that insurers may submit any information required under sections 4, 5, 6, and 8(b) through statistical agents acting on behalf of more than one insurer.

(2) PROTECTIONS.—The regulations issued under this subsection shall permit submission of information through a statistical agent only if the Secretary determines that—

(A) the statistical agent has adequate procedures to protect the integrity of the information submitted;

(B) the statistical agent has a statistical plan and format for submitting the information that meets the requirements of this Act;

(C) the statistical agent has procedures in place that ensure that information reported under the statistical plan in connection with reporting under this Act and submitted to the Secretary is not subject to any adjustment by the statistical agent or an insurer for reasons other than technical accuracy and conformance to the statistical plan;

(D) the information of an insurer is not subject to review by any other insurer before being made available to the public; and

(E) acceptance of the information through the statistical agent will not adversely affect the accuracy of the information reported.

(3) DISCONTINUANCE OF ACCEPTANCE OF INFORMATION.—The Secretary may discontinue accepting information reported through a statistical agent pursuant to this subsection if the Secretary determines that the requirements for such reporting are no longer met

or that continued acceptance of such information is contrary to the goal of ensuring the accuracy of the information reported.

(4) GAO AUDITS.—The Comptroller General of the United States shall, at the request of the Secretary, audit information collection and submission performed under this subsection by data collection contractors or statistical agents to ensure that the integrity of the information collected and submitted is protected. In determining whether to request an audit of a statistical agent, the Secretary shall consider the sufficiency (for purposes of this Act) of audits of the statistical agent conducted in connection with State insurance regulation.

(5) LIABILITY.—Notwithstanding any use of a statistical agent as authorized under this subsection, an insurer using such an agent shall be responsible for compliance with the requirements under this Act.

SEC. 10. SUBMISSION OF INFORMATION TO SECRETARY AND MAINTENANCE OF INFORMATION.

(a) PERIOD OF MAINTENANCE.—The Secretary shall maintain any information submitted to the Secretary for such period as the Secretary considers appropriate and feasible to carry out the purposes of this Act and to allow for historical analysis and comparison of the information.

(b) SUBMISSION.—The Secretary shall issue regulations prescribing a standard schedule (taking into consideration the provisions of section 12(a)), format, and method for submitting information under this Act to the Secretary. The format and method of submitting the information shall facilitate and encourage the submission in a form readable by a computer. Any insurer submitting information to the Secretary may submit in writing to the Secretary any additional information or explanations that the insurer considers relevant to the decision by the insurer to sell insurance.

SEC. 11. COMPILATION OF AGGREGATE INFORMATION.

(a) INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile, for each designated MSA, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information submitted under sections 4, 5, 7, and 8(b) and loss ratios (if the submission of loss information is required), aggregated by applicable region for all insurers submitting such information; and

(B) such information and loss ratios (if the submission of loss information is required), aggregated by applicable region for each such insurer; and

(2) produce tables based on information submitted under sections 4, 5, 7, and 8(b) for each designated MSA, by insurer and for all insurers, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods; and

(B) loss ratios based on the information obtained pursuant to sections 4, 5, 7, and 8(b) (if the submission of loss information is required), aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods.

(b) AGENT INFORMATION.—For each annual reporting period and for each designated MSA, the Secretary shall compile, by designated line, the information submitted under section 4(b)(1)(C)—

(1) by designated insurer by applicable region;

(2) by designated insurer aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics; and

(3) for all designated insurers that have submitted such information for the designated MSA, aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics.

(c) RURAL INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile for each applicable 5-digit zip code, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information regarding insurance in rural areas submitted under sections 6 and 7 and loss ratios, for all insurers for which such information is submitted; and

(B) such information and loss ratios, for each such insurer; and

(2) produce tables for each 5-digit zip code based on information regarding insurance in rural areas submitted under sections 6 and 7, by insurer and for all such insurers for which information is submitted under such sections, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available); and

(B) loss ratios, based on the information obtained pursuant to sections 6 and 7, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available).

SEC. 12. AVAILABILITY AND ACCESS SYSTEM.

(a) AVAILABILITY TO PUBLIC.—

(1) IN GENERAL.—The Secretary shall maintain and make available to the public, in accordance with the requirements of this section, any information submitted to the Secretary under this Act and any information compiled by the Secretary under this Act.

(2) TIMING.—The Secretary shall make such information publicly available on a timetable determined by the Secretary, but not later than 9 months after the conclusion of the annual reporting period to which the information relates, except that such information shall not be made available to the public until it is available in its entirety unless not all the information required to be reported is available by such date.

(b) PUBLIC ACCESS SYSTEM.—

(1) IMPLEMENTATION.—The Secretary shall implement a system to facilitate access to any information required to be made available to the public under this Act.

(2) BASES OF AVAILABILITY.—The system shall provide access in accordance with the following:

(A) ACCESS TO ITEMIZED INFORMATION.—To information submitted under sections 4, 5, 6, 7, and 8(b) on the basis of the insurer submitting the information, on the basis of designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code), and on any other basis the Secretary considers feasible and appropriate.

(B) ACCESS TO AGGREGATE INFORMATION.—To aggregate information compiled under section 11, on the basis of—

(i) the insurer submitting the information;

(ii) designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code); and

(iii) any other basis the Secretary considers feasible and appropriate.

(3) METHOD.—The access system shall include a telephone number that can be used by the public to request such information and the address at which a written request for such information may be submitted.

(4) FORM.—The Secretary shall, by regulation, establish the forms in which such information may be furnished by the Secretary. Such forms shall include written statements, forms readable by widely used personal computers, and, if feasible, on-line access for personal computers. The Secretary shall provide the information available under this section in any such form requested by the person requesting the information, except that the Secretary shall charge a fee for providing such information, which may not exceed the amount, determined by the Secretary, that is equal to the cost of reproducing the information.

(c) PROTECTIONS REGARDING LOSS INFORMATION.—

(1) PROHIBITION OF DISCLOSURE OF LOSS INFORMATION.—Notwithstanding any other provision of this Act, the Secretary may not make available to the public or otherwise disclose any information submitted under this Act regarding the amount or number of claims paid by any insurer, the amount of losses of any insurer, or the loss experience for any insurer, except—

(A) in the form of a loss ratio (expressing the relationship of claims paid to premiums) made available or disclosed in compliance with the provisions of paragraph (2); or

(B) as provided in paragraph (3).

(2) PROTECTION OF IDENTITY OF INSURER.—In making available to the public or otherwise disclosing a loss ratio for an insurer—

(A) the Secretary may not identify the insurer to which the loss ratio relates; and

(B) the Secretary may disclose the loss ratio only in a manner that does not allow any party to determine the identity of the specific insurer to which the loss ratio relates, except parties having access to information under paragraph (3).

(3) CONFIDENTIALITY OF INFORMATION DISCLOSED TO GOVERNMENTAL AGENCIES.—The Secretary may make information referred to in paragraph (1) and the identity of the specific insurer to which such information relates available to any Federal entity and any State agency responsible for regulating insurance in a State and may otherwise disclose such information to any such entity or agency, but only to the extent such entity or agency agrees not to make any such information available or disclose such information to any other person.

SEC. 13. DESIGNATIONS.

(a) DESIGNATION OF MSA'S.—For purposes of this Act, the term "designated MSA" means the following MSA's:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this Act apply (pursuant to section 24), any of the 100 MSA's selected as follows:

(A) The Secretary shall select the 50 MSA's having the largest populations, as determined by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(B) The Secretary shall select 50 additional MSA's, on a basis that provides for—

(i) geographic diversity among the designated MSA's under this paragraph;

(ii) diversity in size of the populations among such MSA's; and

(iii) the inclusion of MSA's with a high concentration of racial minorities.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, an MSA for which a designation under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate not less than 100 MSA's as designated MSA's for each such 5-year period and shall designate such MSA's based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of MSA's for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 20(b) relating to such period.

(D) The designations of MSA's for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of an MSA shall remain in effect until a succeeding designation of MSA's under paragraph (2) takes effect.

(b) DESIGNATION OF INSURERS.—The Secretary shall designate, for each designated line and each State, insurers doing business in the lines as designated insurers in the State for purposes of this Act, subject to the following requirements:

(1) HIGHEST AGGREGATE PREMIUM VOLUME.—

(A) GENERAL RULE.—For each State, the Secretary shall designate, for each designated line, each of the insurers and insurer groups included in the class established under this paragraph for the State.

(B) DETERMINATION.—In each State, the Secretary shall rank the insurers and insurer groups in each designated line from the insurer or group having the largest aggregate premium volume in the State for such line to the insurer or group having the smallest such aggregate premium volume and shall include in the class for the State only—

(i) the insurer or group of the highest rank;

(ii) each insurer or group of successively lower rank if the inclusion of such insurer or group in the class does not result in the sum of such aggregate premium volumes for insurers and groups in the class exceeding 80 percent of the total aggregate premium volume in the State for the line; and

(iii) the first such successively lower ranked insurer or insurer group whose inclusion in the class results in such sum exceeding 80 percent of the total aggregate premium volume in the State for the line.

(2) MINIMUM AGGREGATE PREMIUM VOLUME.—For each State, the Secretary shall designate, for each designated line, each insurer and insurer group not designated pursuant to paragraph (1) whose premium volume in the State for the designated line exceeds 1 percent of the total aggregate premium volume in the State for the line.

(3) FAIR PLANS AND JOINT UNDERWRITING ASSOCIATIONS.—For each State, the Secretary shall designate, for each designated line—

(A) each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements; and

(B) each joint underwriting association;

that provides insurance under such line.

(4) DURATION.—The Secretary shall designate insurers under this subsection once every 5 years. Each insurer designated shall be a designated insurer for each of the first 5 successive annual reporting periods commencing after such designation.

(c) DESIGNATION OF LINES OF INSURANCE.—

(1) IN GENERAL.—The Secretary shall, by regulation, designate homeowners, dwelling fire, and allied lines of insurance as designated lines for purposes of this Act, and shall distinguish the coverage types in such lines by the perils covered and by market or replacement value. For purposes of this Act, homeowners insurance shall not include any renters coverage or coverage for the personal property of a condominium owner.

(2) REPORT.—At any time the Secretary determines that any line of insurance not described in paragraph (1) should be a designated line because disparities in coverage provided under such line exist among geographic areas having different income levels or racial composition, the Secretary shall submit a report recommending designating such line of insurance as a designated line for purposes of this Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives.

(3) DURATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make the designations under this subsection once every 5 years, by regulation, and each line and subline or coverage type designated under such regulations shall be designated for each of the first 5 successive annual reporting periods occurring after issuance of the regulations.

(B) ALTERATION.—During any 5-year period referred to in subparagraph (A) in which designations are in effect, the Secretary may amend or revise the designated lines, sublines, and coverage types only by regulation and only in accordance with the requirements of this subsection. Such regulations amending or revising designations shall apply only to annual reporting periods beginning after the expiration of the 6-month period beginning on the date of issuance of the regulations.

(d) TIMING OF DESIGNATIONS.—The Secretary shall make the designations required by subsections (b)(4) and (c)(3)(A) and notify interested parties during the 6-month period ending 6 months before the commencement of the first annual reporting period to which such designations apply.

(e) OBTAINING INFORMATION.—The Secretary may require insurers to submit to the Secretary such information as the Secretary considers necessary to make designations specifically required under this Act. The Secretary may not require insurers to submit any information under this subsection that relates to any line of insurance not specifically authorized to be designated pursuant to this Act or that is to be used solely for the purpose of a report under subsection (c)(2).

SEC. 14. IMPROVED METHODS AND REPORTING ON BASIS OF OTHER AREAS.

(a) DEVELOPMENT OF IMPROVED METHODS.—The Secretary shall develop, or assist in the improvement of, methods of matching addresses and applicable regions to facilitate compliance by insurers, in as economical a manner as possible, with the requirements of this Act. The Secretary shall allow insurers, or statistical agents acting on behalf of insurers, to match addresses and applicable regions through the use of 9-digit zip codes if the Secretary determines that such use will substantially reduce the cost and burden to insurers of such matching without significant adverse impact on the reliability of the matching.

(b) CONVERTIBILITY.—

(1) AUTHORITY.—The Secretary may, by regulation, provide for insurers to comply with the requirements under sections 4, 5, and 8(b) by reporting the information required under such sections on the basis of geographical location other than MSA and applicable region, but only if the Secretary determines that information reported on such other basis is convertible to the basis of MSA and applicable region and such conversion does not affect the accuracy of the information.

(2) LIMITATION.—With respect to any information submitted on the basis of geographical location other than designated MSA and applicable region pursuant to paragraph (1), the Secretary may disclose the information only on the basis of designated MSA and applicable region.

SEC. 15. ANNUAL REPORTING PERIOD.

(a) IN GENERAL.—For purposes of this Act, the annual reporting periods shall be the 12-month periods commencing in each calendar year on the same day, which shall be selected under subsection (b) by the Secretary.

(b) SELECTION.—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary shall, by regulation, select a day of the year upon which all annual reporting periods shall commence. In determining such day, the Secretary shall consider the reporting periods used for purposes of State and other insurance statistical reporting systems, in order to minimize the burdens on insurers.

SEC. 16. DISCLOSURES BY INSURERS TO APPLICANTS AND POLICYHOLDERS.

(a) IN GENERAL.—The Secretary shall, by regulation, require the following disclosures:

(1) APPLICANTS.—Each insurer that, through the insurer, or an agent or broker, declines a written application or written request to issue an insurance policy under a designated line shall provide to the applicant at the time of such declination, through such insurer, agent, or broker, one of the following:

(A) A written explanation of the specific reasons for the declination.

(B) Written notice that—

(i) the applicant may submit to the insurer, agent, or broker, within 90 days of such notice, a written request for a written explanation of the reasons for the declination; and

(ii) pursuant to such a request, an explanation shall be provided to the applicant within 21 days after receipt of such request.

(2) PROVISION OF EXPLANATION.—If an insurer, agent, or broker making a declination receives a written request referred to in paragraph (1)(B) within such 90-day period, the insurer, agent, or broker shall provide a written explanation referred to in such subparagraph within such 21-day period.

(3) POLICYHOLDERS.—Each insurer that cancels or refuses to renew an insurance policy under a designated line shall provide to the policyholder, in writing and within an appropriate period of time as determined by the

Secretary, the reasons for canceling or refusing to renew the policy.

(b) MODEL ACTS.—In issuing regulations under subsection (a), the Secretary shall consider relevant portions of model acts developed by the National Association of Insurance Commissioners.

(c) PREEMPTION.—Subsection (a) shall not be construed to annul, alter, or effect, or exempt any insurer, agent, or broker subject to the provisions of subsection (a) from complying with any laws or requirements of any State with respect to notifying insurance applicants or policyholders of the reasons for declination or cancellation of, or refusal to renew insurance, except to the extent that such laws or requirements are inconsistent with subsection (a) (or the regulations issued thereunder) and then only to the extent of such inconsistency. The Secretary is authorized to determine whether such inconsistencies exist and to resolve issues regarding such inconsistencies. The Secretary may not provide that any State law or requirement is inconsistent with subsection (a) if it imposes requirements equivalent to the requirements under such subsection or requirements that are more stringent or comprehensive, in the determination of the Secretary.

(d) IMMUNITY.—In issuing regulations under subsection (a), the Secretary shall specifically consider the necessity of providing insurers, agents, and brokers with immunity solely for the act of conveying or communicating the reasons for a declination or cancellation of, or refusal to renew insurance on behalf of a principal making such decision. The Secretary may provide for immunity under the regulations issued under subsection (a) if the Secretary determines that such a provision is necessary and in the public interest, except that the Secretary may not provide immunity for any conduct that is negligent, reckless, or willful.

(e) ENFORCEMENT.—The Secretary may authorize the States to enforce the requirements under regulations issued under subsection (a).

SEC. 17. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any insurer who is determined by the Secretary, after providing opportunity for a hearing on the record, to have violated any requirement pursuant to this Act shall be subject to a civil penalty of not to exceed $5,000 for each day during which such violation continues.

(b) INJUNCTION.—The Secretary may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any insurer who violates the requirements referred to in subsection (a).

(c) INSURER LIABILITY.—An insurer shall be responsible under subsections (a) and (b) for any violation of a statistical agent acting on behalf of the insurer.

SEC. 18. REPORTS.

(a) ANNUAL REPORT.—The Secretary shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives on the implementation of this Act and shall make recommendations to such committees on such additional legislation as the Secretary deems appropriate to carry out this Act. The Secretary shall include in each annual report a description of any complaints or problems resulting from the implementation of this Act, of which the Secretary has knowledge, made by (or on behalf of) insurance policyholders that concern the disclosure of information regarding policyholders and any recommendations for addressing such problems.

(b) GAO REPORTS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit a report under this subsection to the Secretary and the Congress for each 5-year period referred to in sections 6(c)(2) and 13(a)(2), which contains information to be used by the Secretary in implementing this Act during such period.

(2) TIMING.—The report under this subsection for each such 5-year period shall be submitted not later than 18 months before the commencement of the period to which the report relates.

(3) CONTENTS.—A report under this subsection shall include the following information:

(A) An analysis of the adequacy of the implementation of this Act and any recommendations of the Comptroller General for improving the implementation.

(B) The costs to the Federal Government, insurers, and consumers of implementing and complying with this Act.

(C) Any beneficial or harmful effects resulting from the requirements of this Act.

(D) An analysis of whether, considering the purposes of this Act, insurers are required by this Act (or by implementing regulations) to submit appropriate information.

(E) An analysis of whether sufficient evidence exists of patterns of disparities in the availability, affordability, and quality or type of insurance coverage to warrant continued applicability of the requirements of this Act.

(F) An analysis of whether the group of designated MSA's in effect at the time of the report are appropriate for purposes of this Act.

(G) Specific recommendations, for use by the Secretary in designating MSA's for the 5-year period for which the report is made, with regard to—

(i) the characteristics of MSA's that should be included in the group of designated MSA's;

(ii) the number of MSA's that should be included in the group;

(iii) the number of MSA's having each particular characteristic that should be included in the group; and

(iv) the characteristics of MSA's, and number of MSA's having each such characteristic, that should be removed from the group of designated MSA's in effect at the time of the report.

(H) With respect only to the first report required under this subsection, recommendations of whether the study conducted under section 5 should be continued beyond the date in section 5(b)(8) and, if so, whether the requirements regarding the submission of information under the study should be expanded or changed with respect to insurers, MSA's, lines, sublines or coverage types of insurance, and types of small businesses, or whether the study should be allowed to terminate under law.

(I) An analysis of whether the group of designated rural areas in effect at the time of the report are appropriate for purposes of this Act.

(J) Specific recommendations, for use by the Secretary in designating rural areas for purposes of section 6 for the 5-year period for which the report is made, with regard to—

(i) the characteristics of rural areas that should be included in the group of designated rural areas under such section;

(ii) the number of rural areas having each particular characteristic that should be included in the group; and

(iii) the characteristics of rural areas, and number of rural areas having each such characteristic, that should be removed from the group of designated rural areas in effect at the time of the report.

(K) Any other information or recommendations relating to the requirements or implementation of this Act that the Comptroller General considers appropriate.

(4) CONSULTATION.—In preparing each report under this subsection, the Comptroller General shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents) and property and casualty insurers, and community, consumer, and civil rights organizations.

SEC. 19. TASK FORCE ON AGENCY APPOINTMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on insurance agency appointments (hereafter in this section referred to as the "Task Force"). The Task Force shall—

(1) consist of representatives of appropriate Federal agencies, property and casualty insurance agents, including specifically minority insurance agents, property and casualty insurers, State insurance regulators, and community, consumer, and civil rights organizations;

(2) have a significant representation from minority insurance agents; and

(3) be chaired by the Secretary or the Secretary's designee.

(b) FUNCTION.—The Task Force shall—

(1) review the problems inner-city and minority agents may have in receiving appointments to represent property and casualty insurers and consider the effects such problems have on the availability, affordability, and quality or type of insurance, especially in underserved areas;

(2) review the practices of insurers in terminating agents and consider the effects such practices have on the availability, affordability, and quality or type of insurance, especially in underserved areas; and

(3) recommend solutions to improve the ability of inner-city and minority insurance agents to market property and casualty insurance products, including steps property and casualty insurers should take to increase their appointments of such agents.

(c) REPORT AND TERMINATION.—The Task Force shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives its findings under paragraphs (1) and (2) of subsection (b) and its recommendations under paragraph (3) of subsection (b) not later than 2 years after the date of enactment of this Act. The Task Force shall terminate on the date on which the report is submitted to the committees.

SEC. 20. STUDIES.

(a) STUDY OF INSURANCE PRESCREENING.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility and utility of requiring insurers to report information with respect to the characteristics of applicants for insurance and reasons for rejection of applicants. The study shall examine the extent to which—

(A) oral applications or representations are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(B) written applications are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(C) written applications are submitted after the insurer or agent has already made a determination to provide insurance to a prospective insured or has determined that the prospective insured is eligible for insurance; and

(D) prospective insured persons are discouraged from submitting applications for insurance based, in whole or in part, on—

(i) the location of the risk to be insured;

(ii) the racial characteristics of the prospective insured;

(iii) the racial composition of the neighborhood in which the risk to be insured is located; and

(iv) in the case of residential property insurance, the age and value of the risk to be insured.

(2) REPORT.—The Secretary shall report the results of the study under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act. The report shall include recommendations of the Secretary—

(A) with respect to requiring insurers to report on the disposition of oral and written applications for insurance; and

(B) for any legislation that the Secretary considers appropriate regarding the issues described in the report.

(b) STUDY OF INSURER ACTIONS TO MEET INSURANCE NEEDS OF CERTAIN NEIGHBORHOODS.—The Secretary shall conduct a study of various practices, actions, and methods undertaken by insurers to meet the property and casualty insurance needs of residents of low- and moderate-income neighborhoods, minority neighborhoods, and small businesses located in such neighborhoods. The Secretary shall report the results of the study, including any recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act.

(c) STUDY OF DISPARATE CLAIMS TREATMENT.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether, and the extent to which, insurers engage in disparate treatment in handling claims of policyholders under designated lines of insurance based on the race, gender, and income level of the policyholder, and on the racial characteristics and income levels of the area in which the insured risk is located. In conducting the study, the Secretary shall specifically consider whether residents of low-income neighborhoods or areas and minority neighborhoods or areas are more likely than residents of other areas to have their claims contested or their insurance coverage canceled.

(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 2 years after the date of enactment of this Act.

(d) STUDY OF RATING TERRITORIES.—The Secretary shall conduct a study to determine whether the practice in the insurance industry of basing insurance premium amounts on the territory in which the insured risk is located has a disparate impact on the availability, affordability, or quality of insurance by race, gender, or type of neighborhood. The Secretary shall submit a report on the results of the study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 12 months after the date of enactment of this Act.

(e) STUDY OF INSURER REINVESTMENT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of requiring insurers to reinvest in communities and neighborhoods from which they collect premiums for insurance and whether, and the extent to which, community reinvestment requirements for insurers should be established that are comparable to the community reinvestment requirements applicable to depository institutions. The Secretary shall consult with representatives of insurers and consumer, community, and civil rights organizations regarding the results of the study and any recommendations to be made based on the results of the study.

(2) REPORT.—The Secretary shall report the results of the study, including any such recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the appropriate committees of the House of Representatives, not later than 6 months after the conclusion of the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26).

SEC. 21. EXEMPTION AND RELATION TO STATE LAWS.

(a) EXEMPTION FOR UNITED STATES PROGRAMS.—Reporting shall not be required under this Act with respect to insurance provided by any program underwritten or administered by the United States.

(b) RELATION TO STATE LAWS.—This Act does not annul, alter, or affect, or exempt the obligation of any insurer subject to this Act to comply with the laws of any State or subdivision thereof with respect to public disclosure, submission of information, and recordkeeping.

SEC. 22. REGULATIONS.

(a) IN GENERAL.—The Secretary shall issue any regulations required under this Act and any other regulations that may be necessary to carry out this Act. The regulations shall be issued through rulemaking in accordance with the procedures under section 553 of title 5, United States Code, for substantive rules. Except as otherwise provided in this Act, such final regulations shall be issued not later than the expiration of the 18-month period beginning on the date of enactment of this Act.

(b) BURDENS.—In prescribing such regulations, the Secretary shall take into consideration the administrative, paperwork, and other burdens on insurance agents, including independent insurance agents, involved in complying with the requirements of this Act and shall minimize the burdens imposed by such requirements with respect to such agents.

SEC. 23. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) AGENT.—The term "agent" means, with respect to an insurer, an agent licensed by a State who sells property and casualty insurance. The term includes agents who are employees of the insurer, agents who are independent contractors working exclusively for the insurer, and agents who are independent contractors appointed to represent the insurer on a nonexclusive basis.

(2) APPLICABLE REGION.—The term "applicable region" means, with respect to a designated MSA—

(A) for any county located within the MSA that has a population of more than 30,000, the applicable census tract within the county; or

(B) for any county located within the MSA that has a population of 30,000 or less, the applicable county.

(3) COMMERCIAL INSURANCE.—The term "commercial insurance" means any line of property and casualty insurance, except homeowner's, dwelling fire, allied lines, and other personal lines of insurance.

(4) DESIGNATED INSURER.—The term "designated insurer" means, with respect to a designated line, an insurer designated for a State by the Secretary under section 13(b) as a designated insurer for such line or any insurer that is part of an insurer group selected under such section.

(5) DESIGNATED LINE.—The term "designated line" means a line of insurance designated by the Secretary under section 13(c).

(6) EXPOSURES.—The term "exposures" means, with respect to an insurance policy, an expression of an exposure unit covered under the policy compared to the duration of the policy (pursuant to standards established by the Secretary for uniform reporting of exposures).

(7) EXPOSURE UNITS.—The term "exposure units" means a dwelling covered under an insurance policy for homeowners, dwelling fire, or allied lines coverage.

(8) INSURANCE.—The term "insurance" means property and casualty insurance. Such term includes primary insurance, surplus lines insurance, and any other arrangement for the shifting and distributing of risks that is determined to be insurance under the law of any State in which the insurer or insurer group engages in an insurance business.

(9) INSURER.—Except with respect to section 8, the term "insurer" means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is authorized to transact the business of property or casualty insurance in any State or that is engaged in a property or casualty insurance business. The term includes any certified foreign direct insurer, but does not include an individual or entity which represents an insurer as agent solely for the purpose of selling or which represents a consumer as a broker solely for the purpose of buying insurance.

(10) ISSUED.—The term "issued" means, with respect to an insurance policy, newly issued or renewed.

(11) JOINT UNDERWRITING ASSOCIATION.—The term "joint underwriting association" means an unincorporated association of insurers established to provide a particular form of insurance to the public.

(12) MORTGAGE INSURANCE.—The term "mortgage insurance" means insurance against the nonpayment of, or default on, a mortgage or loan for residential or commercial property.

(13) MSA.—The term "MSA" means a Metropolitan Statistical Area or a Primary Metropolitan Statistical Area.

(14) PRIVATE MORTGAGE INSURANCE.—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(15) PROPERTY AND CASUALTY INSURANCE.—The term "property and casualty insurance" means insurance against loss of or damage to property, insurance against loss of income or extra expense incurred because of loss of, or damage to, property, and insurance against third party liability claims caused by negligence or imposed by statute or contract.

Such term does not include workers' compensation, professional liability, or title insurance.

(16) RESIDUAL MARKET.—The term "residual market" means an assigned risk plan, joint underwriting association, or any similar mechanism designed to make insurance available to those unable to obtain it in the voluntary market. The term includes each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements.

(17) RURAL AREA.—The term "rural area" means any area that—

(A) has a population of 10,000 or more;

(B) has a continuous boundary; and

(C) contains only areas that are rural areas, as such term is defined in section 520 of the Housing Act of 1949 (except that clause (3)(B) of such section 520 shall not apply for purposes of this Act).

(18) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(19) STATE.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 24. EFFECTIVE DATE.

The requirements of this Act relating to reporting of information by insurers shall take effect with respect to the first annual reporting period that begins not less than 2 years after the date of enactment of this Act.•

• Mr. FEINGOLD. Mr. President, I am pleased to join with the Senator from Michigan [Mr. RIEGLE], the chairman of the Senate Banking, Housing, and Urban Affairs Committee, in introducing legislation focused on the problem of insurance redlining. Although I will only have had the opportunity to work with Senator RIEGLE for 2 years, it has indeed been an honor, and a privilege to serve with him. His leadership on the Banking Committee, as exemplified in his introduction of this critical piece of legislation, will be sorely missed.

On March 10, 1994, I introduced similar legislation, S. 1917. On May 11, 1994, Senator RIEGLE chaired a hearing on the problem of redlining. Although I do not serve on that committee, Senator RIEGLE graciously invited me to join him at that hearing and to participate in the committee's questioning of the witnesses. Subsequently, my staff worked closely with Senator RIEGLE's staff in preparing the measure being introduced today.

Mr. President, there are few issues of greater importance to millions of Americans. "Communities without insurance are communities without hope." That was the conclusion over 25 years ago by the National Advisory Panel on Insurance. This panel was charged with examining the riot-stricken areas of our Nation in 1968, and they determined that the key to revitalizing our inner cities and bringing economic opportunity to all Americans rested on the ability of these communities to obtain affordable, quality insurance. With proper insurance, you can buy your own home, you can start a small business, and you can purchase an automobile so you can expand your employment opportunities.

Unfortunately, in 1994, too many of our low-income and minority communities have been denied access to the necessary insurance that is required to obtain that home loan or small business loan. The underwriting industry is supposed to be based on economic principles such as loss claims and associated risk. But as decades of research, studies and reports have shown, these economic principles have frequently been replaced by much more reprehensible factors such as the race or income status of the insurance applicant.

This legislation would, among other things, give Federal agencies and affected individuals the ability to effectively detect and address the problem of insurance redlining and enforce the Fair Housing Act. It would accomplish this by requiring insurance companies to disclose and report the number and types of policies made along census tract lines along with the race and income of the applicants and whether the applicants were accepted or rejected. Such information would be invaluable to Federal prosecutors and individuals seeking redress from discriminatory redlining practices. And of course, insurance companies that are in compliance with the law would have nothing to fear from any such disclosures.

I am pleased that the Clinton administration has expressed its support for legislation to address this problem and has urged Congress to act quickly on this important matter. The House of Representatives has recently passed similar legislation by an overwhelming margin. Hearings also already have been held in the Senate Commerce Committee, chaired by my friend from Nevada, Senator BRYAN. As a result of the strong interest in this issue by the Members of the Senate, I am confident we can move forward on this issue in the very near future.

In conclusion, I would like to again thank Senator RIEGLE for his work in this area. I look forward to working with him and others in making sure that we do all that we can to end the practice of insurance discrimination.•

By Mr. FEINGOLD:

S. 2405. A bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes; to the Committee on Labor and Human Resources.

THE CIVIL RIGHTS PROCEDURES PROTECTION ACT OF 1994

• Mr. FEINGOLD. Mr. President, I introduce a bill that is related to S. 2012, the Protection From Coercive Employment Agreements Act of 1994, which I introduced on April 13, 1994. This bill mirrors a House bill just introduced by Representatives PATRICIA SCHROEDER, EDWARD MARKEY, and MARJORIE MARGOLIES-MEZVINSKY as companion legislation to S. 2012.

This bill, however, approaches a rapidly growing problem in a slightly different, but equally effective manner. The problem is the practice of requiring employees to submit claims of discrimination or harassment to arbitration as a term or condition of employment or advancement, and prohibiting the employee from resolving their claim in a court of law.

While S. 2012, would proscribe employers from implementing such requirements, this bill amends seven specific civil rights statutes to make clear that the powers and procedures provided under those laws are the exclusive ones that apply when a claim arises. The legislation would invalidate existing agreements between employers and employees that require the employment discrimination claims to be submitted to mandatory arbitration.

The statutes this bill would amend are title VII of the Civil Rights Act of 1964, section 505 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, section 1977 of the revised statutes, the Equal Pay Act, the Family and Medical Leave Act, and the Federal Arbitration Act [FAA]. The amendment to the FAA extends the protections of the bill to claims of unlawful discrimination that arise under State or local law and other Federal laws that prohibit job discrimination.

Mr. President, I want to reiterate that this legislation, as in the case of S. 2012, is in no way intended to bar the use of voluntary arbitration, conciliation, mediation, or other informal quasi-judicial methods of dispute resolution. In fact, I strongly support the use of voluntary dispute resolution methods as a way of reducing the caseloads of civil and criminal courts where appropriate.

This bill closes a widening loophole in the enforcement of civil rights laws in our Nation. An entire industry—Wall Street—and a growing number of companies and firms in many other industries have been able to circumvent formal legal challenges to their unlawful employment practices in court, a right intended to be protected by the statutes this bill amends. Employers can tell current and prospective employees, "If you want to work for us, you'll have to check your rights at the door."

Mr. President, this practice must be stopped now. It is simply unfair to require an employee to waive in advance his or her statutory right to seek remedy in a court of law in exchange for employment or a promotion. This bill will restore integrity in the relations between employees and employers.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2405

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 "Civil Rights Procedures Protection Act of 1994".

SEC. 2. AMENDMENT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) is amended by adding at the end the following new section:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 719. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim arising under this title, such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 3. AMENDMENT TO THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) is amended—

(1) by redesignating sections 16 and 17 as sections 17 and 18, respectively; and

(2) by inserting after section 15 the following new section 16:

"EXCLUSIVITY OF POWERS AND PROCEDURES

"SEC. 16. Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a right or claim arising under this Act, such powers and procedures shall be the exclusive powers and procedures applicable to such right or such claim unless after such right or such claim arises the claimant voluntarily enters into an agreement to resolve such right or such claim through arbitration or another procedure.".

SEC. 4. AMENDMENT TO THE REHABILITATION ACT OF 1973.

Section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 795) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on right under section 501, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 5. AMENDMENT TO THE AMERICANS WITH DISABILITIES ACT OF 1990.

Section 107 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117) is amended by adding at the end the following new subsection:

"(c) Notwithstanding any Federal statute of general applicability that would modify any of the powers and procedures expressly applicable to a claim based on a violation described in subsection (a), such powers and procedures shall be the exclusive powers and procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 6. AMENDMENT TO SECTION 1977 OF THE REVISED STATUTES OF THE UNITED STATES.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a right to make and enforce a contract of employment under this section, such procedures shall be the exclusive procedures applicable to a claim based on such right unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 7. AMENDMENT TO THE EQUAL PAY REQUIREMENT UNDER THE FAIR LABOR STANDARDS ACT OF 1938-.

Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any Federal statute of general applicability that would modify any of the powers or procedures expressly applicable to a claim based on violation of this subsection, such powers and procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 8. AMENDMENT TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

Title IV of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) is amended by adding at the end the following new section:

"SEC. 406. EXCLUSIVITY OF REMEDIES.

"Notwithstanding any Federal statute of general applicability that would modify any of the procedures expressly applicable to a claim based on a right provided under this Act or under an amendment made by this Act, such procedures shall be the exclusive procedures applicable to such claim unless after such claim arises the claimant voluntarily enters into an agreement to resolve such claim through arbitration or another procedure.".

SEC. 9. AMENDMENT TO TITLE 9 OF THE UNITED STATES CODE.

Section 14 of title 9, United States Code, is amended—

(1) by inserting "(a)" before "This"; and

(2) by adding at the end the following new subsection:

"(b) This chapter shall not apply with respect to a claim of unlawful discrimination in employment if such claim arises from discrimination based on race, color, religion, sex, national origin, age, or disability.".

SEC. 10. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply with respect to claims arising on and after the date of the enactment of this Act.●

ADDITIONAL COSPONSORS

S. 359

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 359, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Law Enforcement Officers Memorial, and for other purposes.

S. 1917

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1917, a bill to provide for public access to information regarding the availability of insurance, and for other purposes.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf war.

S. 2247

At the request of Mr. GORTON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 2247, a bill to amend the Fair Housing Act to modify the exemption from certain familial status discrimination prohibitions granted to housing for older persons, and for other purposes.

S. 2305

At the request of Mr. AKAKA, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2305, a bill to provide that members of the Board of Veterans' Appeals be referred to as veterans law judges, to provide for the pay of such members, and for other purposes.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2347

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2347, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution.

AMENDMENT NO. 2564

At the request of Mr. DASCHLE the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of amendment No. 2564 proposed to S. 2351, an original bill to achieve universal health insurance coverage, and for other purposes.

AMENDMENTS SUBMITTED

THE HEALTH SECURITY ACT

MACK (AND OTHERS) AMENDMENT NO. 2568

Mr. MACK (for himself, Mr. COATS, Mr. PACKWOOD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. NICKLES, Mr. MCCONNELL, Mr. LOTT, Mr. HELMS, Mrs. HUTCHISON, Mr. GREGG, Mr. KEMPTHORNE, and Mr. ROTH) proposed an amendment to amendment No. 2560 proposed by Mr. MITCHELL to the bill (S. 2351) to achieve universal health insurance coverage, and for other purposes; as follows:

On page 129, strike line 13 and all that follows through line 16.

On page 263, insert between lines 15 and 16 the following new section:

SEC. 1604. APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT AND THE PROVISIONS OF TITLE 5, UNITED STATES CODE.

(a) FEDERAL ADVISORY COMMITTEE ACT.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to any entity that—

(A) is established by or pursuant to this Act or is established or required to be established by an entity created under this Act; and

(B) is an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of the Federal Advisory Committee Act shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such specified provision (or all provisions) of the Federal Advisory Committee Act shall not apply to such entity.

(b) TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subject to paragraph (2) of this subsection, the provisions of title 5, United States Code, shall apply to any board or other similar entity that—

(A) is established by or pursuant to this Act; and

(B) is not an advisory committee as defined under section 3(2) of the Federal Advisory Committee Act.

(2) EXCEPTION.—A provision of title 5, United States Code, shall not apply to an entity described under paragraph (1) only if a provision of this Act expressly provides that such provision (or all provisions) of title 5, United States Code, shall not apply to such entity.

On page 605, strike line 3 and all that follows through line 13.

On page 1409, strike line 1 and all that follows through line 3.

MITCHELL AMENDMENT NO. 2569

Mr. MITCHELL proposed an amendment to amendment No. 2560 proposed by him to the bill S. 2351, supra; as follows:

On page 1432, strike lines 21 through 24, and insert the following:

SEC. 10135. PROVISIONS REGARDING NONPAYMENT OF PREMIUMS.

(a) IN GENERAL.—A health plan may terminate coverage if amounts owed to the plan for a month with respect to an individual or an individual's family members have not been fully paid for a time period established under State law, or in the absence of such a law, a period of not less than 60 days, and the health plan has made reasonable attempts to collect such amounts.

(b) NOTICE.—Notwithstanding any other provision of this Act, a health plan may terminate coverage for nonpayment of premiums under subsection (a) only after providing notice of amounts overdue (in a form and manner and at such times as prescribed by the appropriate certifying authority).

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1994

EXON AMENDMENT NO. 2570

Mr. FORD (for Mr. EXON) proposed an amendment to the bill (S. 839) to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1994".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) high-speed rail offers safe and transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

(b) PURPOSE.—The purpose of this Act is to encourage far-sighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity travel corridors.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Part C of subtitle IV of title 49, United States Code (relating to passenger transportation), is amended by adding at the end the following new chapter:

"CHAPTER 251—HIGH-SPEED RAIL ASSISTANCE

"§ 25101. Corridor planning

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant, based upon the criteria set forth in subsection (d) of this section, to fund corridor planning under subsection (b)(1) of this section.

(b) ELIGIBLE ACTIVITIES.—

"(1) A corridor planning activity is eligible for financial assistance under subsection (c) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institution plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) Economic analyses, including ridership, revenue and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) interface with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening, grade crossing closings, and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, interface with other modes of transportation, parking and other means of passenger access, track, signal, station and other capital works, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CORRIDOR PLANNING ASSISTANCE.—

"(1) The Secretary may provide under this subsection financial assistance to an applicant for corridor planning for up to 50 per centum of the publicly financed costs associated with eligible activities.

"(2) No less than 20 per centum of publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources cannot include funds from any Federal program.

"(d) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of applicants for financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the relationship or inclusion of the corridor in the Secretary's national high-speed ground transportation policy;

"(B) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 miles per hour or greater.

"(C) the integration of the corridor into metropolitan area and Statewide transportation planning;

"(D) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(E) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(F) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act;

"(G) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(H) the estimated level of ridership;

"(I) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossing;

"(J) rail transportation employment impacts;

"(K) community economic impacts;

"(L) the extent to which the projected revenues of the high-speed rail service to be planned, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(M) whether a route has been selected, specific improvements identified, and capacity studies completed.

"25102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary is authorized to undertake activities for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized in subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency or the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized in subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"25103. Definitions.

"For purposes of this chapter—

"(1) the term 'applicant' means a public agency, or a group of such public agencies, seeking financial assistance under this title;

"(2) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(3) the term 'high-speed rail' means rail passenger transportation expected to reach and maintain speeds of 125 miles per hour or greater;

"(4) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State, and local governments;

"(4) the term 'State'' means any of the several States, the District of Columbia, Puerto Rico, the Northern Marian Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States;

"(5) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

"§ 25104. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.".

SEC. 4. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR FISCAL YEAR 1995.—There is authorized to be appropriated to the Secretary of Transportation $29,000,000 for financial assistance authorized under sections 25101 and 25102 of title 49 United States Code.

(b) AUTHORIZATION FOR FISCAL YEAR 1996.—There is authorized to be appropriated to the Secretary—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(c) AUTHORIZATION FOR FISCAL YEAR 1997.—There is authorized to be appropriated to the Secretary of Transportation—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(d) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a), (b) and (c), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under chapter 251 of title 49 United States Code.

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

AUTHORITY FOR COMMITTEES TO MEET

ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, August 18, 1994, at 9:30 a.m. in open session, to receive testimony on the military implications of the chemical weapons convention [CWC].

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

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 Thursday, August 18, 1994, at 10 a.m. to hold a business meeting to vote on pending items.

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 Thursday, August 18, 1994 at 10 a.m. for a markup on the following item: S. 1697, the Federal Disaster Preparedness and Response Act of 1994.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 18, 1994, at 9:30 a.m., in room 226, Senate Dirksen office building on the nomination of Lois Jane Schiffer, of the District of Columbia, to be assistant Attorney General.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, August 18, 1994, at 10 a.m., in room 628, Senate Dirksen office building on the nominations of Nancy Gist to be Director of the Bureau of Justice Assistance, Laurie Robinson to be assistant attorney general for the Office of Justice programs, Jan Chaiken to be Director of the Bureau of Justice Statistics and Jeremy Travis to be Director of the National Institute of Justice.

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

ADDITIONAL STATEMENTS

S. 784, DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

Mr. HARKIN. Mr. President, I am very pleased that the Senate on Saturday unanimously passed S. 784, the Dietary Supplement Health and Education Act. This was an important moment for American consumers and for preventive health care. And it has been a long-time coming. My colleague from Utah, Senator HATCH, and I have been working for months to bring about this bipartisan compromise which promotes consumer protection and education and freedom of choice.

The Hatch-Harkin compromise adopted by the Senate is the result of many weeks of discussions and alterations. It guarantees the American people access to supplements to their diets that promote improved health and well-being. It also takes steps to assure that consumers will receive truth and nonmisleading information about these products without excessive, biased regulation by the Federal Government.

Mr. President, there is an overwhelming irony in a government that

subsidizes to the tune of a billion dollars a year the advertising and promotion of tobacco, which kills over 450,000 Americans a year, while running roughshod on the promotion of products that aim to promote health and save lives.

Taxpayers are being asked to subsidize activities that are designed to hook our kids on a habit that we know robs health. At the same time the FDA wants to deny people access to information they can use to take charge of their own health. Something is out of whack here. And the Hatch-Harkin substitute changes that.

Our substitute includes four major modifications to the bill adopted by the Labor Committee in May.

First, health claims will be subject to the pre-approval process and standard established by the Nutrition Labeling and Education Act while a Commission studies what and provides us recommendations on the best way to handle these claims. This is a significant change from the original S. 784 and shows a great willingness to compromise.

Second, it assures that consumers can receive truthful, nonmisleading articles, books or other publications at health food stores and elsewhere in connection with the sale of dietary supplements. This information has to be presented in a manner that ensures that consumers receive a balanced view of the scientific evidence about the health effects of dietary supplements. I believe this will make for more informed consumers and better consumer decision by reducing the great confusion that exist today due to the almost daily reports—often conflicting and confusing—we take in from newspapers and others on the latest new study on the health effects of vitamins, minerals, and other dietary supplements.

Third, the compromise assures that prescription drugs cannot escape appropriate review and oversight by being classified as dietary supplements. This concern was raised by a number of Senators and the legislation before us addresses it in a sensible manner.

Fourth, our compromise assures that so-called structure-function claims can be made while assuring that these claims are not health or disease claims.

Mr. President, this compromise is a critical first step toward final enactment of S. 784. The bill now goes to the House for its consideration. Our staffs have been meeting for months with leaders in the House. They have made significant progress in a number of important areas. I believe that with the unanimous passage of the Hatch-Harkin compromise here in the Senate, and with these ongoing discussions, we can see a good bill signed into law this year. I will continue to do all I can to make sure that happens, and happens as quickly as possible.

As you know, I have been a long-time advocate of preventive health care. And this proposal is an important part of that. We don't have a health care system in this Nation. We have a sick care system. We spend billions patching and mending. But we flunk when it comes to helping people stay healthy in the first place. If all we do is change how we pay the bills, we're just rearranging the deck chairs on the Titanic. We're going down. The only way we'll really get costs under control is to emphasize prevention and giving people the wherewithal to stay healthy.

This bill is an important step in that direction.

ORDER FOR CONSIDERATION OF COMMERCE-STATE-JUSTICE APPROPRIATIONS CONFERENCE REPORT

Mr. FORD. Mr. President, I ask unanimous consent that at 9:30 a.m. Friday, August 19, the Chair lay before the Senate a conference report accompanying H.R. 4603, the Commerce-State-Justice appropriations bill, and that the Senate then proceed to its immediate consideration; that there be a time limit of 1 hour for debate, with the time equally divided and controlled in the usual form; that upon the use or yielding back of the time without intervening action the Senate proceed to vote on the adoption of the conference report.

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

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

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

Mr. FORD. 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.

Mr. FORD. I thank the Chair.

JUDICIAL AMENDMENTS ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2407, the Judicial Amendments Act of 1994 introduced earlier today by Senators HEFLIN, BIDEN, HATCH, GRASSLEY, and SPECTER; that the bill be read three times, passed, motion to reconsider be laid upon the table, and that any statements relating to this legislation be placed in the record at the appropriate place as if read.

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

Mr. HEFLIN. Mr. President, I am pleased to introduce with several of my colleagues on the Judiciary Committee a bill that will extend several authorities relative to the operation of the U.S. judiciary. I know that I and my colleagues would have liked to have done more, but the Senate schedule precludes a more comprehensive courts bill this year. I would expect that if I continue as chairman of the Courts Subcommittee in the next Congress, I will, in cooperation with all members of my subcommittee, hold hearings early next year to consider legislation on behalf of the administrative office of the U.S. courts as well as the U.S. Court of Federal Claims.

Section 1 of this legislation designates the name of the bill as the Judicial Amendments Act of 1994.

Section 2 extends the authorization of the Judiciary Automation Fund by 3 years to September 30, 1997 and clarifies the purposes for which the fund can be used, authorizing other agencies within the Federal judiciary to contribute to and use the fund if they deem it appropriate.

Congress established the fund, which is administered by the administrative office of the U.S. courts, in 1989 to create a multiyear source of funding to allow the judiciary to develop and implement a long-term plan to automate the Federal courts.

The General Accounting Office in a report to Congress on June 30, 1994 advises that the fund obligations for fiscal years 1990–93 were approximately $351 million for automation services, equipment, and support for the Federal courts.

The GAO report states that the fund has financed the expansion of automation to 190 of 197 courts by March of this year. This has been, however, not without problems—the systems are cumbersome to use and maintain. The GAO report notes that the Federal judiciary has begun to establish life cycle management standards to ensure quality systems design and implementation and to develop greater user involvement in systems development.

The GAO report recommends that Congress should reauthorize the fund for less than 5 years, and this legislation would follow that recommendation by reauthorizing the fund for 3 additional years to September 30, 1997.

Section 2 also incorporates three other recommendations of the GAO report. It will require the judiciary to report annually to Congress on the progress in developing a strategic business plan for the courts, implementing a long-range automation plan based on the strategic business plan, and require effective administrative office oversight of court automation efforts. It is my belief that if Congress follows the recommendation of the GAO report that these actions will, as the report states, "result in more effective use of the judiciary's automation resources."

Section 3 of this legislation is a simple reauthorization of 3 years to December 31, 1997 of 10 pilot programs of

mandatory court-annexed arbitration which are currently operating in selected Federal district courts as well as 10 additional pilot programs of voluntary court-annexed arbitration.

The Judicial Conference has recommended that Congress adopt legislation to continue authorization for court-annexed arbitration in the 20 districts which are operating such programs, and the conference has gone only so far as to recommend authorization for the remaining Federal district courts of voluntary court-annexed arbitration. Thus the conference has not recommended the expansion of mandatory court-annexed arbitration for the remainder of the Federal district courts. This section of the legislation follows the recommendation of the Judicial Conference.

It is my understanding from discussions with Department of Justice officials that the administration expects to present a comprehensive civil justice reform plan to congress early next year and that in this plan the issue of alternative dispute resolution will be addressed. Additionally, later this year I expect to introduce legislation that would address this issue as regards voluntary A.D.R.

Section 4 of this bill extend the Rand Corp's study of civil litigation for 1 additional year. More than 3½ years have passed since the Civil Justice Reform Act [CJRA], the Biden bill, was signed into law. Each of the 94 U.S. district courts has implemented expense and delay reduction plans in accordance with the dictates of the CJRA. The Judicial Conference is required to submit a final report evaluating certain case management principles included in the expense and delay reduction plans in December 1995 28 U.S.C. §471 notes.

The Rand Corp. was designated by the Judicial Conference to conduct the study by examining 5,000 cases selected from 20 courts. Ten of these courts—pilot courts—were required to implement their expense and delay reduction plans on an expedited basis and include the six principles of case management outlines in 28 U.S.C. §473(A). The remaining 10 courts—comparison courts—implemented expense and delay reduction plans but were not required to adopt the six principles. The study will determine whether the six principles contribute to reducing expense and delay in Federal courts.

In May, the Judicial Conference Committee on Court Administration and Case Management sent a letter to Chairman BIDEN outlining Rand's concerns about completion of the study. As a result of unforeseen problems in implementing plans, some of the courts in the study did not implement an expense and delay reduction plan as quickly as expected. Rand estimates that 20 percent of the cases chosen as part of the study will not be closed by the statutory deadline for completion of the study.

While Rand can estimate the results of the remaining cases, concrete results from the open cases are integral to the study and should not be the subject of speculation. Both the Judicial Conference and Rand maintain that the remaining 20 percent of the cases will represent the most complex segment of the caseload—those cases requiring significant amounts of judicial involvement, discovery and court time. One of the primary purposes behind the CJRA was to develop methods to expedite consideration of complex cases. Rand asserts that an additional year for the study would leave less than 8 percent of the cases unresolved.

Again, the provisions of this legislation are designed to address the immediate concerns and needs of the Federal judiciary. I urge my colleagues to support its immediate passage.

Mr. SPECTER. Mr. President, I am pleased to join in introducing this legislation to reauthorize certain important programs for the Federal judiciary that must be reauthorized this year or they will expire. All of the provisions of this bill are vital to the judicial branch and not controversial.

The legislation would reauthorize for 3 years the Judiciary Automation Fund, through which the Federal courts purchase automation equipment and services to improve their efficiency. The bill makes some changes to the Automation Fund in response to a recent study by the General Accounting Office, which was critical of certain aspects of the fund's operation. These changes will improve the management of the Automation Fund, and I thank Senator HEFLIN and Senator GRASSLEY for making them in order to improve the operation of the fund.

The bill will also extend the Rand Corp.'s study of Federal civil litigation that was authorized in the Civil Justice reform Act of 1990 for an additional year. In order to ensure that this study is most useful to Congress and the courts, it must include a review of the most complex cases that can take the longest time to resolve. Permitting a 1-year extension will allow the Rand Corp. to prepare a broader report that will be of greater use to Congress in evaluating the Federal civil justice system.

Finally, and of most interest to me, the bill would reauthorize for 3 years the 20 court-annexed arbitration programs in the Federal courts. Currently, 10 Federal judicial districts are authorized to employ voluntary, nonbinding arbitration programs and another 10 are authorized to employ mandatory, binding arbitration for small civil cases.

The eastern district of Pennsylvania, under the leadership of Judge Raymond Broderick, pioneered the use of mandatory court-annexed arbitration. Today, all segments of the bar of the eastern district of Pennsylvania, plaintiffs' lawyers and defense counsel, strongly support the program. The judges of the court also strongly favor the program, which enables the court to resolve small cases expeditiously and with minimal cost to the litigants. I have heard from many judges of the eastern district and the court of appeals for the third circuit supporting this reauthorization.

While there has been debate over whether to expand mandatory, court-annexed arbitration programs throughout the Federal judiciary, there is no reason to prevent those courts that have been employing it successfully at their own option to continue to do so.

I am grateful to both Senator HEFLIN and Senator GRASSLEY, the chairman and ranking Republican of the Subcommittee on Courts and Administrative Practice, for moving so expeditiously on this bill, which will benefit not simply the judges, lawyers, and litigants of the eastern district of Pennsylvania, but this Nation as a whole. Because the programs reauthorized by this bill will expire this year, it is imperative that Congress act promptly. By introducing and passing the bill on the same day, the Senate is doing its part to ensure the uninterrupted continuation of these programs. I hope that the House will act responsibly and adopt this bill promptly so that this legislation may be signed into law before the programs expire.

I thank the presiding officer and yield the floor.

Mr. GRASSLEY. Mr. President, I am pleased to join Senator HEFLIN in cosponsoring the Judicial Amendments Act of 1994. This bill is designed to address three elements important to the operation of our Federal court system.

First, the bill reauthorizes for 3 years the existing court-annexed arbitration programs. Currently, 10 district courts have mandatory, nonbinding arbitration for cases involving less than $150,000. And another 10 districts have voluntary, nonbinding programs. The authority for these programs would otherwise expire this December without our legislation.

Court-annexed arbitration is designed to let individuals and small businesses obtain speedier and less costly relief from the Federal courts. The Federal Judicial Center studied court-annexed arbitration and concluded that alternative dispute resolution works. I strongly agree. But because limited time remains in this Congress, this bill will only extend the existing programs, despite the overwhelming evidence that all judicial districts should be allowed to create these programs.

The second feature of the bill is to extend the Rand Corp.'s study of civil litigation for another year. In the Civil Justice Reform Act of 1990, the Rand Corp. was tasked with studying various kinds of civil cases in the Federal judicial system. A large number of cases

have been examined. However, the process did not start as early as might have been ideal. As a result, the kinds of cases that have not been fully studied are the largest, most complex cases that take the longest time to proceed to resolution. For the Rand study to be most useful to the subject to civil justice reform, it must examine the largest and most complex cases, because these cases have a disproportionate impact on the quality of civil justice provided by the Federal courts and on resources expended. By extending the study for another year, the Rand study will be more useful when the 104th Congress considers civil justice reform.

The third element of this bill is a reauthorization of the Judiciary Automation Fund. The Federal courts must use this fund for their purchase of automation equipment and services. Automation services are used by Federal courts for case, financial, and personnel management.

The Automation Fund is worthy and should be reauthorized. We have followed a recent General Accounting Office report which recommends a 3-year reauthorization rather than 5 years. During these 3 years, the judiciary will be able to assess the quality of its ongoing automation efforts and demonstrate progress in responding to the criticisms of the GAO report.

The bill conditions reauthorization of the fund on the judiciary's development of an overall strategic business plan to identify the missions, goals, and objectives of judicial automation. The judiciary is required to develop a long-term automation plan based on the strategic business plan and estimated user needs. Moreover, the judiciary needs to establish effective oversight by the Administrative Office to ensure the effectiveness of existing system and control over development of future systems. At the moment, there are multiple systems of automation in various courts, some of which are incompatible with each other. There are a few additional conditions for the Administrative Office, such as auditing and financial systems, contained in the bill that derive as well from the GAO report.

Mr. President, because of the immediate need to reauthorize these functions in light of the short time remaining for the 103d Congress, the bill is limited to these areas. Nonetheless, the importance of civil justice reform remains as important as ever. Although I am pleased to see this effort undertaken to keep existing reforms continue, and I appreciate chairman HEFLIN's efforts, this bill is not enough. I will work in the 104th Congress to ensure that civil justice reform is a top priority of the Judiciary Committee. By then, the administration will have issued its recommendations in this area, and the Rand study will be completed.

So the bill (S. 2407) was passed, as follows:

S. 2407

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 "Judicial Amendments Act of 1994".

SEC. 2. AMENDMENTS TO THE JUDICIARY AUTOMATION FUND.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence by inserting after "equipment for" the following: "program activities included in the courts of appeals, district courts, and other judicial services account of"; and

(B) in the third sentence by striking out all after "personal services" and inserting in lieu thereof ", support personnel in the courts and in the Administrative Office of the United States Courts, and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment purchased by the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2).";

(2) in subsection (b)(1) by striking out "judicial branch" and inserting in lieu thereof "activities funded under subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2133)";

(3) in subsection (b)(2) by striking out "judicial branch of the United States" and inserting in lieu thereof "activities funded under subsection (a)";

(4) in subsection (c)(1)(A), by inserting after "surplus property" the following: ", all fees collected after the date of the enactment of the Judicial Amendments Act of 1994 by the judiciary under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2133)";

(5) in subsection (e)(1)—

(A) by striking out "(A)"; and

(B) by striking out "$75,000,000" and inserting in lieu thereof "amounts estimated to be collected under subsection (c) for that fiscal year";

(6) in subsection (h) by amending the subsection to read as follows:

"(h) ANNUAL REPORT.—

"(1) IN GENERAL.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(2) ADDITIONAL CONTENTS OF REPORT.—The annual report submitted under this subsection shall include—

"(A) the specific actions taken and the progress made to improve the plan developed under subsection (b) and the long range automation plan and strategic business plan developed under subsection (k); and

"(B) a comparison of planned Fund expenditures and accomplishments with actual Fund expenditures and accomplishments, and the reasons for any delays in scheduled systems development, or budget overruns.

"(3) REPORT IN YEAR OF TERMINATION OF AUTHORITY.—The annual report submitted under this subsection for any year in which the authority for this section is to terminate under subsection (m), shall be submitted no later than 9 months before the date of such termination.";

(7) in subsection (i) by striking out all after "Judicial Conference of the United States," and inserting in lieu thereof "may transfer amounts up to $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts transferred from the Fund in excess of $1,000,000 in any fiscal year may only be transferred by following reprogramming procedures in compliance with section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2227).";

(8) in subsection (j) in the second sentence by inserting "in statute" after "not specified";

(9) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) LONG RANGE MANAGEMENT AND BUSINESS PLANS.—The Director of the Administrative Office of the United States Court shall—

"(1) develop an overall strategic business plan which would identify the judiciary's missions, goals, and objectives;

"(2) develop a long range automation plan based on the strategic business plan and user needs assessments;

"(3) establish effective Administrative Office oversight of court automation efforts to ensure the effective operation of existing systems and control over developments of future systems;

"(4) expedite efforts to complete the development and implementation of life cycle management standards;

"(5) utilize the standards in developing the next generation of case management and financial systems; and

"(6) assess the current utilization and future user requirements of the data communications network."; and

(10) in subsection (m) (as redesignated under paragraph (9) of this section—

(A) in the first sentence by striking out "1994", and inserting in lieu thereof, "1997"; and

(B) in the second sentence by striking out "'Judicial Services Account'" and inserting in lieu thereof "fund established under section 1931 of this title".

SEC. 3. COURT ARBITRATION AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note) is amended—

(1) in the first sentence by striking out "for the fiscal year ending September 30, 1989, and for each of the succeeding 7 fiscal years," and inserting in lieu thereof "for each of the fiscal years 1994 through 1997"; and

(2) in the third sentence by striking out all beginning with ", except that" through "this Act".

(b) REMOVAL OF REPEALER.—Section 906 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note), and the item relating to such section in the table of contents contained in section 3 of such Act, are repealed.

SEC. 4. EXTENSION OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PILOT PROGRAMS.

Section 105 of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note; 104 Stat. 5097) is amended—

(1) in subsection (a)(1) by striking out "4-year period" and inserting in lieu thereof "5-year period";

(2) in subsection (b)(3)—

(A) in the first sentence by striking out "3 years" and inserting in lieu thereof "4 years"; and

(B) in the second sentence by striking out "3-year period" and inserting in lieu thereof "4-year period"; and

(3) in subsection (c)(1) by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1996,".

LOCAL SERVICE AREA OF PRIMARY TRANSMITTER

Mr. SIMPSON. Mr. President, I send a bill to the desk on behalf of Senators HUTCHISON and HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (S. 2406) to amend title 17, United States Code, relating to the definition of local service area of a primary transmitter, and for other purposes.

There being no objection, the bill (S. 2406) was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 2406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.

(a) IN GENERAL.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "local service area of a primary transmitter"—

(1) by striking out "comprises the area" and inserting in lieu thereof "comprises either the area"; and

(2) by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any subsequent modifications to such television market made pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

(b) EFFECTIVE DATE.—The amendment made under subsection (a), relating to the definition of the local service area of a primary transmitter, shall take effect on July 1, 1994.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar number 561, S. 2060, the Small Business Administration Reauthorization.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Small Business, with an amendment to strike out all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorizations.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

Sec. 201. Microloan financing pilot.
Sec. 202. Eligibility of Native American tribal governments to be microloan intermediaries.
Sec. 203. Microloan program extension.
Sec. 204. Microloan program funding and State limitations.
Sec. 205. Distribution of intermediaries.
Sec. 206. Microloan intermediary loan limitation.
Sec. 207. Microloan technical assistance to nonborrowers.
Sec. 208. Microloan demonstration program grants.
Sec. 209. Eligibility to participate as a microloan intermediary and a technical assistance provider.
Sec. 210. Loans to exporters.
Sec. 211. Working capital international trade loans.
Sec. 212. Guarantees on international trade loans.
Sec. 213. Accredited lenders program.
Sec. 214. Interest rate on certified development company loans.
Sec. 215. Certifications of eligibility for SBIC and SSBIC financing.
Sec. 216. Participating securities for smaller SBICs.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

Sec. 301. Size standard criteria.
Sec. 302. Sunset on preferred surety bond guarantee program.
Sec. 303. Manufacturing contracts through manufacturing application and education centers.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

Sec. 401. Sunset on cosponsored training.
Sec. 402. Small business development center program level.
Sec. 403. Federal contracts with small business development centers.
Sec. 404. Small business development center program examination and certification.
Sec. 405. Service Corps of Retired Executives (SCORE) program.
Sec. 406. Information concerning franchising.

Subtitle B—Development of Woman-Owned Businesses

Sec. 411. Extension of authority for demonstration projects.
Sec. 412. Establishment of Office of Women's Business Ownership.
Sec. 413. National Commission on Women in Business.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Sec. 501. Short title.
Sec. 502. Prepayment of development company debentures.

TITLE VI—MISCELLANEOUS AMENDMENTS

Sec. 601. Consolidation of funding accounts.
Sec. 602. Imposition of fees.
Sec. 603. Job creation and community benefit.
Sec. 604. Microloan program amendments.
Sec. 605. Technical clarification.
Sec. 606. Secondary market study due date.
Sec. 607. Study and data base: Guaranteed Business Loan Program and Development Company Program.
Sec. 608. SBIR vendors.
Sec. 609. Program extension.
Sec. 610. Prohibition on the use of funds for individuals not lawfully within the United States.
Sec. 611. Office of advocacy employees.
Sec. 612. Prohibition on the provision of assistance.
Sec. 613. Certification of compliance with child support obligations.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

"(*l*) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by this Act, the Administration is authorized to make $110,000,000 in direct and immediate participation loans, and $45,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $13,315,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $9,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,300,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $15,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $33,000,000 in purchases of preferred securities;

"(B) $275,000,000 in guarantees of debentures, of which $65,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $500,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000, of which not more than $450,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter into cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,500,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,000,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), $25,000,000, to remain available until expended.

"(m) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make $175,000,000 in direct and immediate participation loans, and $65,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $15,320,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $10,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,800,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $39,000,000 in purchases of preferred securities;

"(B) $300,000,000 in guarantees of debentures, of which $70,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $750,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $500,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,750,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,250,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make $250,000,000 in direct and immediate participation loans and $98,000,000 in technical assistance grants as provided in section 7(m), to remain available until expended.

"(2) For the programs authorized by this Act, the Administration is authorized to make $19,020,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $12,000,000,000 in general business loans as provided in section 7(a);

"(B) $3,500,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $3,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $45,000,000 in purchases of preferred securities;

"(B) $375,000,000 in guarantees of debentures, of which $75,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $1,125,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,200,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,500,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(q) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.".

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

"(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

"(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

"(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans. Subject to the availability of appropriations, the Administration may make payments to lenders on behalf of intermediaries in order to achieve such interest rate.".

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v) an agency of or nonprofit entity established by a Native American Tribal Government,".

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102-140 (105 Stat. 831) is amended by striking "5 years after the date of enactment of this Act", and inserting "on October 1, 1998".

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (5)(A)—

(A) by striking "25 grants" and inserting "50 grants"; and

(B) by striking "$125,000" and inserting "$150,000"; and

(2) by striking paragraph (7) and inserting the following:

"(7) PROGRAM FUNDING FOR MICROLOANS.—

"(A) NUMBER OF PARTICIPANTS.—In carrying out paragraph (1)(B)(i), the Administration may fund, on a competitive basis, not more than—

"(i) 150 microloan programs in fiscal year 1995; and

"(ii) 200 microloan programs in each succeeding fiscal year.

"(B) STATE LIMITATIONS.—A State shall not receive more than $10,000,000 in loan funds during any year of program participation.".

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will further microloan availability for small businesses in all industries located throughout each State, especially small businesses located in economically distressed urban and rural areas.".

SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "$1,250,000" and inserting "$2,000,000".

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

"(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—Each intermediary may expend an amount not to exceed 20 percent of the grant funds authorized under paragraph (1)(B)(ii) to provide marketing, management, and technical assistance to small business concerns that are not borrowers under this subsection.".

SEC. 208. MICROLOAN DEMONSTRATION PROGRAM GRANTS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe," after "under subparagraph (A),"; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program.".

SEC. 209. ELIGIBILITY TO PARTICIPATE AS A MICROLOAN INTERMEDIARY AND A TECHNICAL ASSISTANCE PROVIDER.

Section 7(m)(2) of the Small Business Act (15 U.S.C. 636(m)(2)) is amended—

(1) by striking "(2) ELIGIBILITY FOR PARTICIPATION.—An" and inserting the following:

"(2) ELIGIBILITY FOR PARTICIPATION.—

"(A) IN GENERAL.—An";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting accordingly; and

(3) by adding at the end the following new subparagraph:

"(B) PARTICIPATION AS INTERMEDIARY AND TECHNICAL ASSISTANCE PROVIDER.—A single entity may simultaneously receive 1 grant as an intermediary pursuant to paragraph (1)(B)(ii) and 1 grant as a nonintermediary technical assistance provider pursuant to paragraph (1)(B)(iii) if the Administration determines that—

"(i) the purposes of the grants are not duplicative;

"(ii) the grants will enable the entity to provide technical assistance to different geographic areas, or to support both guaranteed and direct loans in the same geographic area; and

"(iii) the entity meets all of the requirements of the programs authorized pursuant to clauses (ii) and (iii) of paragraph (1)(B).".

SEC. 210. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.".

SEC. 211. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and".

SEC. 212. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).".

SEC. 213. ACCREDITED LENDERS PROGRAM.

(a) ESTABLISHMENT.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM.

"(a) ESTABLISHMENT.—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

"(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

"(4) has a reasonable and acceptable loss rate on the company's debentures;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program authorized by sections 502, 503, and 504.

"(c) EXPEDITED PROCESSING OF LOAN APPLICATIONS.—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—

"(1) IN GENERAL.—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

"(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

"(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(2) EFFECT.—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 214. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

(1) in paragraph (1), by striking "(1) IN GENERAL.—Section 503" and inserting "Section 503"; and

(2) by striking paragraph (2).

SEC. 215. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

"(h) CERTIFICATIONS OF ELIGIBILITY.—

"(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

"(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

"(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.".

SEC. 216. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of less than $20,000,000.

"(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of less than $20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of $20,000,000 or more.".

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. SIZE STANDARD CRITERIA.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) SIZE STANDARD CRITERIA.—

"(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

"(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, or a combination thereof.

"(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(i) is proposed after an opportunity for public notice and comment;

"(ii) provides for determining—

"(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 12 months;

"(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years; and

"(III) the size of other business concerns on the basis of data over a period of not less than 3 years; and

"(iii) is approved by the Administrator.".

SEC. 302. SUNSET ON PREFERRED SURETY BOND GUARANTEE PROGRAM.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) IN GENERAL.—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) QUALIFICATIONS.—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

(1) Technology demonstration.

(2) Technology education.

(3) Technology application support.

(4) Technology advancement support.

(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking "and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are" and inserting "is".

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

"(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

"(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

"(C) NATIONAL PROGRAM.—

"(i) IN GENERAL.—No recipient of funds under this section shall receive a grant that exceeds—

"(I) for fiscal year 1995, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $100,000; or

"(bb) $200,000; and

"(II) except as provided in clause (ii), in each succeeding fiscal year, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $200,000; or

"(bb) $300,000.

"(ii) EXCEPTION.—The provisions of clause (i)(I) shall apply in any fiscal year after fiscal year 1995 in which, based on funds appropriated, a small business development center would, under the provisions of clause (i)(II), receive less than the small business development center received in fiscal year 1995.

"(iii) AMOUNT.—The amount of the national program shall be—

"(I) $70,000,000 through September 30, 1995;

"(II) $77,500,000 from October 1, 1995 through September 30, 1996; and

"(III) $85,000,000 beginning October 1, 1996.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.".

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

"(A) IN GENERAL.—A small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns, if the contract is approved in advance by the Associate Administrator of the small business development center program.

"(B) APPROVAL CRITERIA.—Each approval of a contract under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

"(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

"(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph may not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).".

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

"(k) PROGRAM EXAMINATION AND CERTIFICATION.—

"(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biannual programmatic and financial examination of each small business development center established pursuant to this section.

"(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).".

SEC. 405. SERVICE CORPS OF RETIRED EXECUTIVES (SCORE) PROGRAM.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by adding at the end the following new subparagraph:

"(H) In carrying out subparagraph (B), the Administration shall encourage the Service Corps of Retired Executives (SCORE) established pursuant to such subparagraph, to the maximum extent practicable, to consult and work in conjunction with the Corporation for National and Community Service and the Points of Light Foundation established under the National and Community Service Act of 1990.".

SEC. 406. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting "including information on the benefits and risks of franchising," after "small-business enterprises,".

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 28 (as added by section 2 of the Women's Business Development Act of 1991) as section 29; and

(2) in section 29(g), as redesignated, by striking "1995" and inserting "1997".

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

SEC. 413. NATIONAL COMMISSION ON WOMEN IN BUSINESS.

(a) ESTABLISHMENT.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 401. ESTABLISHMENT.

"There is hereby established a Commission to be known as the 'National Commission on Women in Business' (hereafter in this title referred to as the 'Commission').".

(b) DUTIES OF THE COMMISSION.—Section 402 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 402. DUTIES OF THE COMMISSION.

"The Commission shall—

"(1) review, promote, coordinate, and monitor plans and programs, developed in the public and private sectors, which affect the ability of woman-owned businesses to obtain capital and credit;

"(2) promote and assist in the development of the Intermediate Census on Women's Business Ownership and other surveys of woman-owned businesses;

"(3) provide assistance to and outreach for the involvement of women business owners in White House Conference on Small Business;

"(4) study and assess—

"(A) the obstacles faced by women seeking to establish businesses and women seeking senior management positions in large and small businesses and in the professions; and

"(B) the contributions to the Nation's economy by businesses owned or managed by women; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate the development and growth of woman-owned businesses.

"(b) REPORT.—Not later than January 31, 1996, the Commission shall submit a report to the President and the Committees on Small Business of the Senate and the House of Representatives describing the plan developed pursuant to subsection (a)(5).".

(c) MEMBERSHIP.—Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 403. MEMBERSHIP OF THE COMMISSION.

"(a) IN GENERAL.—The Commission shall be composed of 14 members, of whom—

"(1) 7 members shall be the individuals described in subsection (b); and

"(2) 7 members shall be appointed in accordance with subsection (c).

"(b) PUBLIC SECTOR MEMBERS.—For purposes of subsection (a)(1), the individuals described in this section are—

"(1) the Administrator of the Small Business Administration;

"(2) the Assistant Administrator of the Office of Women's Business Ownership of the Small Business Administration;

"(3) the Secretary of the Treasury, or the Secretary's designee;

"(4) the Secretary of Labor, or the Secretary's designee;

"(5) the Secretary of Commerce, or the Secretary's designee;

"(6) the Administrator of the General Services Administration, or the Administrator's designee; and

"(7) 1 member of the Board of Governors of the Federal Reserve System, or the designee of a member.

"(c) PRIVATE SECTOR MEMBERS.—

"(1) CHAIRPERSON.—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the President shall appoint an individual to serve as the chairperson of the Commission (hereafter in this title referred to as the 'Chairperson') who shall be a prominent business-woman who is qualified to head the Commission by virtue of her education, training, and experience.

"(2) OTHER MEMBERS.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the Administrator of the Small Business Administration shall appoint 6 members of the Commission, of whom—

"(A) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is a member of the same political party as the President;

"(B) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is not a member of the same political party as the President; and

"(C) 4 shall be representatives of national women's business organizations.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) RESTRICTION.—The members of the Commission appointed pursuant to subsection (c) shall not be officers or employees of the Federal Government.

"(2) VICE CHAIRPERSON.—The member of the Commission appointed pursuant to subsection (b)(2) shall serve as vice chairperson of the Commission.

"(3) TERMS.—The term of service of the members of the Commission appointed pursuant to subsection (c) shall be 1 year. No member of the Commission may serve for more than 2 consecutive terms.

"(4) DESIGNEES.—Each designee appointed pursuant to subsection (b) shall—

"(A) be a policy-making official whose duties are consistent with the duties of the Commission; and

"(B) report directly to the head of the agency on the activities of the Commission.

"(5) COMPENSATION AND TRAVEL EXPENSES.—

"(A) PUBLIC SECTOR MEMBERS.—The members of the Commission described in subsection (b) shall serve on the Commission without additional compensation.

"(B) PRIVATE SECTOR MEMBERS.—The members of the Commission appointed pursuant to subsection (c) shall serve without pay for membership, except that such members shall be entitled to reimbursement for domestic travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(6) VACANCIES.—A vacancy on the Commission shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(7) MEETINGS.—The Commission shall meet at the call of the Chairperson not less than 4 times each year.

"(8) QUORUMS.—

"(A) RECEIPT OF TESTIMONY.—Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

"(B) APPROVAL OF RECOMMENDATIONS.—A majority of the members of the Commission shall constitute a quorum for the approval of recommendations or reports issued pursuant to sections 402 and 406.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 404. EXECUTIVE DIRECTOR AND STAFF.

"(a) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson and the Assistant Administrator of the Small Business Administration Office of Women's Business Ownership. Upon the recommendation by the Executive Director, the Chairperson may appoint and fix the pay of 4 additional employees at a rate of pay not to exceed the maximum rate of pay payable for a position at GS–15 of the General Schedule.

"(b) ADMINISTRATIVE PROVISIONS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (a), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the Executive Director so appointed may not receive pay in excess of the annual rate of basic pay payable for a position at ES–1 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

"(c) DETAIL OF ADDITIONAL PERSONNEL.—Upon request to the Chairperson, the head of any Federal department or agency may detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 405 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission"; and

(2) by adding at the end the following new subsection:

"(f) COOPERATION WITH PRIVATE ENTITIES.—

"(1) IN GENERAL.—Subject to the requirements of paragraph (2), the Commission may carry out its duties under section 402 through cooperation with private nonprofit and for-profit entities.

"(2) RESTRICTION.—If the Commission cooperates with private entities pursuant to paragraph (1), the Commission shall ensure that—

"(A) the Commission receives appropriate recognition and publicity;

"(B) the cooperation does not constitute or imply an endorsement by the Commission of the products and services of the cosponsor; and

"(C) the Commission avoids unnecessary promotion of the products and services of the cosponsor and minimizes utilization of any 1 cosponsor in a marketing area.".

(f) REPORTS.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission";

(2) by striking "December 31, 1989" and inserting "not later than 1 year after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994"; and

(3) by striking "based upon its reviews conducted under section 402".

(g) AUTHORIZATION.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 in fiscal year 1995;

"(2) $500,000 is fiscal year 1996; and

"(3) $100,000 in fiscal year 1997."; and

(2) by striking subsection (c).

(h) TRANSITION REIMBURSEMENT.—In order to facilitate the transition from the National Women's Business Council, established by title IV of the Women's Business Ownership Act of 1988, to the National Commission on Women in Business established by this section, the National Commission on Women in Business may, during the 30-day period beginning on the date on which the Chairperson of the National Commission on Women in Business is appointed pursuant to section 413 of this Act, reimburse the costs and salaries, where appropriate, of the Chairperson, Executive Director, and staff of the National Women's Business Council for transition activities.

(i) SUNSET.—The authority of the National Commission on Women in Business established under title IV of the Women's Business Ownership Act of 1988, as amended by this section, shall terminate on November 30, 1996.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

SEC. 502. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 508. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

"(a) IN GENERAL.—

"(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under section 503 may, at the election of the borrower whose loan secures such debenture and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section.

"(2) PROCEDURE.—

"(A) IN GENERAL.—In making a prepayment under paragraph (1)—

"(i) the borrower shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

"(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(B) REPURCHASE PREMIUM.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

"(I) the unpaid principal balance due on the debenture on the date of prepayment; and

"(II) the applicable percentage rate, as determined in accordance clause (ii).

"(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

"(I) with respect to a 10-year term loan, 9.5 percent;

"(II) with respect to a 15-year term loan, 9.5 percent;

"(III) with respect to a 20-year term loan, 10.5 percent; and

"(IV) with respect to a 25-year term loan, 11.5 percent.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that—

"(1) the debenture is outstanding and neither the loan that secures the debenture nor the debenture is in default on the date on which the prepayment is made;

"(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by sections 504 and 505, are used to prepay the debenture; and

"(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

"(c) NO PREPAYMENT FEES OR PENALTIES.—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

"(d) REFINANCING LIMITATIONS.—

"(1) IN GENERAL.—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2) of this section—

"(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

"(B) shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

"(2) JOB CREATION.—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

"(3) LOAN PROCESSING FEE.—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection (b)(2) may impose a loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'issuer' means the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

"(2) the term 'borrower' means a small business concern whose loan secures a debenture issued pursuant to section 503.".

(b) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administration shall promulgate such regulations as may be necessary to carry out this section, including regulations establishing a deadline for receipt of applications for prepayment and refinancing under title V of the Small Business Investment Act of 1958.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. CONSOLIDATION OF FUNDING ACCOUNTS.

(a) IN GENERAL.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended by striking "(c)(1) There" and all that follows through paragraph (4) and inserting the following:

"(c) LOAN LIQUIDATION FUND.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—There is hereby established in the United States Treasury a fund to be known as the Loan Liquidation Fund (hereafter in this subsection referred to as the 'Fund').

"(B) AMOUNTS CONTAINED IN FUND.—All amounts received by the Administration prior to October 1, 1991, from the repayment of loans and debentures, payments of interest, and other receipts arising out of transactions entered into by the Administration pursuant to section 5(e), 5(g), 7(a), 7(b), 7(c)(2), 7(e), 7(h), 7(l), 7(m), or 8(a) of this Act, or title III, IV, or V of the Small Business Investment Act of 1958, shall be paid into the Fund. Balances existing in the revolving funds on or after the effective date of this paragraph shall be transferred to the Fund on such date.

"(C) OPERATING EXPENSES.—The Fund shall have available, without fiscal year limitation, such funds as may be necessary to finance the operational needs of the Fund.

"(2) ANNUAL STATUS REPORT.—As soon as practicable after the end of each fiscal year, the Administration shall submit to the Committees on Small Business and Appropriations of the Senate and the House of Representatives a complete report on the status of the Fund.".

(b) INTEREST PAYMENTS TO TREASURY.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (3); and

(2) in paragraph (3)(B), as redesignated, by striking clause (ii) and inserting the following:

"(ii) Upon the expiration of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest the Administration has collected during the preceding fiscal year on all financings made under the authority of this Act.".

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

"(A) not to exceed $300 for each loan servicing action requested after disbursement of the loan, including any substitution of collateral, loan assumption, release or substitution of a guarantor, reamortization, or similar action; and

"(B) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of the Small Business Act and the Small Business Investment Act of 1958; and

"(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph shall be utilized solely to facilitate the administration of the program that generated the excess amounts.".

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

"(i) have the greatest potential for—

"(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

"(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

"(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.".

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting "and loan guarantees" after "for loans"; and

(2) by inserting after "experienced microlending organizations" the following: "and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.".

SEC. 605. TECHNICAL CLARIFICATION.

(a) DEFENSE CONVERSION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(b) ADDITIONAL TECHNICAL CLARIFICATION.—Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended by striking "section 202" and inserting "this title".

SEC. 606. SECONDARY MARKET STUDY DUE DATE.

Section 6 of the Small Business Credit Enhancement Act of 1993 (15 U.S.C. 634 note) is amended by striking "16 months after the date of enactment" and inserting "November 1, 1994".

SEC. 607. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) STUDY AUTHORIZED.—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) EVALUATION.—After conducting the study under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a) on an annual and aggregated basis during the most recent 4-year period for which data are available. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) CONTRACTING WITH INDEPENDENT ENTITIES.—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

(1) to conduct the study pursuant to subsection (a); and

(2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) DATE.—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 608. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.".

SEC. 609. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking "September 30, 1994", and inserting "September 30, 1995".

SEC. 610. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.".

SEC. 611. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1) by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1), by striking "ten" and inserting "14".

SEC. 612. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON THE PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that is determined to be obscene.".

SEC. 613. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 612, is amended by adding at the end the following new subsection:

"(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

"(1) IN GENERAL.—Each applicant for financial assistance under this Act, including an applicant for a direct loan or a loan guarantee, shall certify that the applicant is not in violation of the terms of any—

"(A) administrative order;

"(B) court order; or

"(C) repayment agreement entered into between the applicant and the custodial parent or State agency providing child support enforcement services,

that requires the applicant to pay child support, as such term is defined in section 462(b) of the Social Security Act.

"(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall issue such regulations as may be necessary to enforce compliance with the requirements of this subsection.".

Mr. FORD. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, and the bill, as amended, be deemed read the third time, passed, and the motion to reconsider to laid upon the table; that the title amendment be agreed to, and the motion to reconsider be laid on the table; further that any statements appear in the RECORD as if read.

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

The committee amendment was agreed to.

So the bill (S. 2060), as amended, was deemed read the third, and passed, as follows:

S. 2060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorizations.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS
Sec. 201. Microloan financing pilot.
Sec. 202. Eligibility of Native American tribal governments to be microloan intermediaries.
Sec. 203. Microloan program extension.
Sec. 204. Microloan program funding and State limitations.
Sec. 205. Distribution of intermediaries.
Sec. 206. Microloan intermediary loan limitation.
Sec. 207. Microloan technical assistance to nonborrowers.
Sec. 208. Microloan demonstration program grants.
Sec. 209. Eligibility to participate as a microloan intermediary and a technical assistance provider.
Sec. 210. Loans to exporters.
Sec. 211. Working capital international trade loans.
Sec. 212. Guarantees on international trade loans.
Sec. 213. Accredited lenders program.
Sec. 214. Interest rate on certified development company loans.
Sec. 215. Certifications of eligibility for SBIC and SSBIC financing.
Sec. 216. Participating securities for smaller SBICs.
TITLE III—SIZE STANDARDS AND BOND GUARANTEES
Sec. 301. Size standard criteria.
Sec. 302. Sunset on preferred surety bond guarantee program.
Sec. 303. Manufacturing contracts through manufacturing application and education centers.
TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE
Subtitle A—General Provisions
Sec. 401. Sunset on cosponsored training.
Sec. 402. Small business development center program level.
Sec. 403. Federal contracts with small business development centers.
Sec. 404. Small business development center program examination and certification.
Sec. 405. Service Corps of Retired Executives (SCORE) program.
Sec. 406. Information concerning franchising.
Subtitle B—Development of Woman-Owned Businesses
Sec. 411. Extension of authority for demonstration projects.
Sec. 412. Establishment of Office of Women's Business Ownership.
Sec. 413. National Commission on Women in Business.
TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES
Sec. 501. Short title.
Sec. 502. Prepayment of development company debentures.
TITLE VI—MISCELLANEOUS AMENDMENTS
Sec. 601. Consolidation of funding accounts.
Sec. 602. Imposition of fees.
Sec. 603. Job creation and community benefit.
Sec. 604. Microloan program amendments.
Sec. 605. Technical clarification.
Sec. 606. Secondary market study due date.
Sec. 607. Study and data base: Guaranteed Business Loan Program and Development Company Program.
Sec. 608. SBIR vendors.
Sec. 609. Program extension.
Sec. 610. Prohibition on the use of funds for individuals not lawfully within the United States.
Sec. 611. Office of advocacy employees.
Sec. 612. Prohibition on the provision of assistance.
Sec. 613. Certification of compliance with child support obligations.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

"(l) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by this Act, the Administration is authorized to make $110,000,000 in direct and immediate participation loans, and $45,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $13,315,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $9,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,300,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $15,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $33,000,000 in purchases of preferred securities;

"(B) $275,000,000 in guarantees of debentures, of which $65,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $500,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000, of which not more than $450,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter into cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,500,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,000,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), $25,000,000, to remain available until expended.

"(m) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make $175,000,000 in direct and immediate participation loans, and $65,000,000 in technical assistance grants as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $15,320,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $10,000,000,000 in general business loans as provided in section 7(a);

"(B) $2,800,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $39,000,000 in purchases of preferred securities;

"(B) $300,000,000 in guarantees of debentures, of which $70,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $750,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $500,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,750,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,250,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make $250,000,000 in direct and immediate participation loans and $98,000,000 in technical assistance grants as provided in section 7(m), to remain available until expended.

"(2) For the programs authorized by this Act, the Administration is authorized to make $19,020,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $12,000,000,000 in general business loans as provided in section 7(a);

"(B) $3,500,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $3,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $45,000,000 in purchases of preferred securities;

"(B) $375,000,000 in guarantees of debentures, of which $75,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $1,125,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,200,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $4,000,000;

"(B) for the small business institute program authorized by section 8(b)(1), $3,500,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $25,000,000, to remain available until expended.

"(q) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.".

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

"(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

"(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

"(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans. Subject to the availability of appropriations, the Administration may make payments to lenders on behalf of intermediaries in order to achieve such interest rate.".

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v) an agency of or nonprofit entity established by a Native American Tribal Government,".

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102-140 (105 Stat. 831) is amended by striking "5 years after the date of enactment of this Act", and inserting "on October 1, 1998".

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (5)(A)—

(A) by striking "25 grants" and inserting "50 grants"; and

(B) by striking "$125,000" and inserting "$150,000"; and

(2) by striking paragraph (7) and inserting the following:

"(7) PROGRAM FUNDING FOR MICROLOANS.—

"(A) NUMBER OF PARTICIPANTS.—In carrying out paragraph (1)(B)(i), the Administration may fund, on a competitive basis, not more than—

"(i) 150 microloan programs in fiscal year 1995; and

"(ii) 200 microloan programs in each succeeding fiscal year.

"(B) STATE LIMITATIONS.—A State shall not receive more than $10,000,000 in loan funds during any year of program participation.".

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will further microloan availability for small businesses in all industries located throughout each State, especially small businesses located in economically distressed urban and rural areas.".

SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "$1,250,000" and inserting "$2,000,000".

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

"(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—Each intermediary may expend an amount not to exceed 20 percent of the grant funds authorized under paragraph (1)(B)(ii) to provide marketing, management, and technical assistance to small business concerns that are not borrowers under this subsection.".

SEC. 208. MICROLOAN DEMONSTRATION PROGRAM GRANTS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe," after "under subparagraph (A),"; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns owned by one or more members of a federally recognized Indian tribe; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program.".

SEC. 209. ELIGIBILITY TO PARTICIPATE AS A MICROLOAN INTERMEDIARY AND A TECHNICAL ASSISTANCE PROVIDER.

Section 7(m)(2) of the Small Business Act (15 U.S.C. 636(m)(2)) is amended—

(1) by striking "(2) ELIGIBILITY FOR PARTICIPATION.—An" and inserting the following:

"(2) ELIGIBILITY FOR PARTICIPATION.—

"(A) IN GENERAL.—An";

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting accordingly; and

(3) by adding at the end the following new subparagraph:

"(B) PARTICIPATION AS INTERMEDIARY AND TECHNICAL ASSISTANCE PROVIDER.—A single entity may simultaneously receive 1 grant as an intermediary pursuant to paragraph (1)(B)(ii) and 1 grant as a nonintermediary technical assistance provider pursuant to paragraph (1)(B)(iii) if the Administration determines that—

"(i) the purposes of the grants are not duplicative;

"(ii) the grants will enable the entity to provide technical assistance to different geographic areas, or to support both guaranteed and direct loans in the same geographic area; and

"(iii) the entity meets all of the requirements of the programs authorized pursuant to clauses (ii) and (iii) of paragraph (1)(B).".

SEC. 210. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.".

SEC. 211. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and".

SEC. 212. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).".

SEC. 213. ACCREDITED LENDERS PROGRAM.

(a) ESTABLISHMENT.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM.

"(a) ESTABLISHMENT.—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

"(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

"(4) has a reasonable and acceptable loss rate on the company's debentures;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program authorized by sections 502, 503, and 504.

"(c) EXPEDITED PROCESSING OF LOAN APPLICATIONS.—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—

"(1) IN GENERAL.—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

"(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

"(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(2) EFFECT.—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 214. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

(1) in paragraph (1), by striking "(1) IN GENERAL.—Section 503" and inserting "Section 503"; and

(2) by striking paragraph (2).

SEC. 215. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

"(h) CERTIFICATIONS OF ELIGIBILITY.—

"(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

"(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

"(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.".

SEC. 216. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of less than $20,000,000.

"(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of less than $20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of $20,000,000 or more.".

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. SIZE STANDARD CRITERIA.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) SIZE STANDARD CRITERIA.—

"(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

"(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, or a combination thereof.

"(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(i) is proposed after an opportunity for public notice and comment;

"(ii) provides for determining—

"(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 12 months;

"(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years; and

"(III) the size of other business concerns on the basis of data over a period of not less than 3 years; and

"(iii) is approved by the Administrator.".

SEC. 302. SUNSET ON PREFERRED SURETY BOND GUARANTEE PROGRAM.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) IN GENERAL.—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) QUALIFICATIONS.—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

(1) Technology demonstration.

(2) Technology education.

(3) Technology application support.

(4) Technology advancement support.

(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking "and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are" and inserting "is".

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

"(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

"(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

"(C) NATIONAL PROGRAM.—

"(i) IN GENERAL.—No recipient of funds under this section shall receive a grant that exceeds—

"(I) for fiscal year 1995, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $100,000; or

"(bb) $200,000; and

"(II) except as provided in clause (ii), in each succeeding fiscal year, the greater of—

"(aa) the sum of such recipient's pro rata share of a national program based upon the population to be served by the small business development center as compared to the total population in the United States, and $200,000; or

"(bb) $300,000.

"(ii) EXCEPTION.—The provisions of clause (i)(I) shall apply in any fiscal year after fiscal year 1995 in which, based on funds appropriated, a small business development center would, under the provisions of clause (i)(II), receive less than the small business development center received in fiscal year 1995.

"(iii) AMOUNT.—The amount of the national program shall be—

"(I) $70,000,000 through September 30, 1995;

"(II) $77,500,000 from October 1, 1995 through September 30, 1996; and

"(III) $85,000,000 beginning October 1, 1996.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.".

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

"(A) IN GENERAL.—A small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns, if the contract is approved in advance by the Associate Administrator of the small business development center program.

"(B) APPROVAL CRITERIA.—Each approval of a contract under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

"(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

"(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph may not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).".

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

"(k) PROGRAM EXAMINATION AND CERTIFICATION.—

"(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biannual programmatic and financial examination of each small business development center established pursuant to this section.

"(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).".

SEC. 405. SERVICE CORPS OF RETIRED EXECUTIVES (SCORE) PROGRAM.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by adding at the end the following new subparagraph:

"(H) In carrying out subparagraph (B), the Administration shall encourage the Service Corps of Retired Executives (SCORE) established pursuant to such subparagraph, to the maximum extent practicable, to consult and work in conjunction with the Corporation for National and Community Service and the Points of Light Foundation established under the National and Community Service Act of 1990.".

SEC. 406. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting "including information on the benefits and risks of franchising," after "small-business enterprises,".

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 28 (as added by section 2 of the Women's Business Development Act of 1991) as section 29; and

(2) in section 29(g), as redesignated, by striking "1995" and inserting "1997".

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

SEC. 413. NATIONAL COMMISSION ON WOMEN IN BUSINESS.

(a) ESTABLISHMENT.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 401. ESTABLISHMENT.

"There is hereby established a Commission to be known as the 'National Commission on Women in Business' (hereafter in this title referred to as the 'Commission').".

(b) DUTIES OF THE COMMISSION.—Section 402 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 402. DUTIES OF THE COMMISSION.

"The Commission shall—

"(1) review, promote, coordinate, and monitor plans and programs, developed in the public and private sectors, which affect the ability of woman-owned businesses to obtain capital and credit;

"(2) promote and assist in the development of the Intermediate Census on Women's Business Ownership and other surveys of woman-owned businesses;

"(3) provide assistance to and outreach for the involvement of women business owners in White House Conference on Small Business;

"(4) study and assess—

"(A) the obstacles faced by women seeking to establish businesses and women seeking senior management positions in large and small businesses and in the professions; and

"(B) the contributions to the Nation's economy by businesses owned or managed by women; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate the development and growth of woman-owned businesses.

"(b) REPORT.—Not later than January 31, 1996, the Commission shall submit a report to the President and the Committees on Small Business of the Senate and the House of Representatives describing the plan developed pursuant to subsection (a)(5).".

(c) MEMBERSHIP.—Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 403. MEMBERSHIP OF THE COMMISSION.

"(a) IN GENERAL.—The Commission shall be composed of 14 members, of whom—

"(1) 7 members shall be the individuals described in subsection (b); and

"(2) 7 members shall be appointed in accordance with subsection (c).

"(b) PUBLIC SECTOR MEMBERS.—For purposes of subsection (a)(1), the individuals described in this section are—

"(1) the Administrator of the Small Business Administration;

"(2) the Assistant Administrator of the Office of Women's Business Ownership of the Small Business Administration;

"(3) the Secretary of the Treasury, or the Secretary's designee;

"(4) the Secretary of Labor, or the Secretary's designee;

"(5) the Secretary of Commerce, or the Secretary's designee;

"(6) the Administrator of the General Services Administration, or the Administrator's designee; and

"(7) 1 member of the Board of Governors of the Federal Reserve System, or the designee of a member.

"(c) PRIVATE SECTOR MEMBERS.—

"(1) CHAIRPERSON.—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the President shall appoint an individual to serve as the chairperson of the Commission (hereafter in this title referred to as the 'Chairperson') who shall be a prominent businesswoman who is qualified to head the Commission by virtue of her education, training, and experience.

"(2) OTHER MEMBERS.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994, the Administrator of the Small Business Administration shall appoint 6 members of the Commission, of whom—

"(A) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is a member of the same political party as the President;

"(B) 1 shall be an owner of a small business concern, as such term is defined in section 3 of the Small Business Act, who is not a member of the same political party as the President; and

"(C) 4 shall be representatives of national women's business organizations.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) RESTRICTION.—The members of the Commission appointed pursuant to subsection (c) shall not be officers or employees of the Federal Government.

"(2) VICE CHAIRPERSON.—The member of the Commission appointed pursuant to subsection (b)(2) shall serve as vice chairperson of the Commission.

"(3) TERMS.—The term of service of the members of the Commission appointed pursuant to subsection (c) shall be 1 year. No member of the Commission may serve for more than 2 consecutive terms.

"(4) DESIGNEES.—Each designee appointed pursuant to subsection (b) shall—

"(A) be a policy-making official whose duties are consistent with the duties of the Commission; and

"(B) report directly to the head of the agency on the activities of the Commission.

"(5) COMPENSATION AND TRAVEL EXPENSES.—

"(A) PUBLIC SECTOR MEMBERS.—The members of the Commission described in subsection (b) shall serve on the Commission without additional compensation.

"(B) PRIVATE SECTOR MEMBERS.—The members of the Commission appointed pursuant to subsection (c) shall serve without pay for membership, except that such members shall be entitled to reimbursement for domestic travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(6) VACANCIES.—A vacancy on the Commission shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(7) MEETINGS.—The Commission shall meet at the call of the Chairperson not less than 4 times each year.

"(8) QUORUMS.—

"(A) RECEIPT OF TESTIMONY.—Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

"(B) APPROVAL OF RECOMMENDATIONS.—A majority of the members of the Commission shall constitute a quorum for the approval of recommendations or reports issued pursuant to sections 402 and 406.".

(d) EXECUTIVE DIRECTOR AND STAFF.—Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 404. EXECUTIVE DIRECTOR AND STAFF.

"(a) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson and the Assistant Administrator of the Small Business Administration Office of Women's Business Ownership. Upon the recommendation by the Executive Director, the Chairperson may appoint and fix the pay of 4 additional employees at a rate of pay not to exceed the maximum rate of pay payable for a position at GS-15 of the General Schedule.

"(b) ADMINISTRATIVE PROVISIONS.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (a), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the Executive Director so appointed may not receive pay in excess of the annual rate of basic pay payable for a position at ES-1 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

"(c) DETAIL OF ADDITIONAL PERSONNEL.—Upon request to the Chairperson, the head of any Federal department or agency may detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.".

(e) POWERS OF THE COMMISSION.—Section 405 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission"; and

(2) by adding at the end the following new subsection:

"(f) COOPERATION WITH PRIVATE ENTITIES.—

"(1) IN GENERAL.—Subject to the requirements of paragraph (2), the Commission may carry out its duties under section 402 through cooperation with private nonprofit and for-profit entities.

"(2) RESTRICTION.—If the Commission cooperates with private entities pursuant to paragraph (1), the Commission shall ensure that—

"(A) the Commission receives appropriate recognition and publicity;

"(B) the cooperation does not constitute or imply an endorsement by the Commission of the products and services of the cosponsor; and

"(C) the Commission avoids unnecessary promotion of the products and services of the cosponsor and minimizes utilization of any 1 cosponsor in a marketing area.".

(f) REPORTS.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking "Council" each place it appears and inserting "Commission";

(2) by striking "December 31, 1989" and inserting "not later than 1 year after the date of enactment of the Small Business Administration Reauthorization and Amendment Act of 1994"; and

(3) by striking "based upon its reviews conducted under section 402".

(g) AUTHORIZATION.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 in fiscal year 1995;

"(2) $500,000 is fiscal year 1996; and

"(3) $100,000 in fiscal year 1997."; and

(2) by striking subsection (c).

(h) TRANSITION REIMBURSEMENT.—In order to facilitate the transition from the National Women's Business Council, established by title IV of the Women's Business Ownership Act of 1988, to the National Commission on Women in Business established by this section, the National Commission on Women in Business may, during the 30-day period beginning on the date on which the Chairperson of the National Commission on Women in Business is appointed pursuant to section 413 of this Act, reimburse the costs and salaries, where appropriate, of the Chairperson, Executive Director, and staff of the National Women's Business Council for transition activities.

(i) SUNSET.—The authority of the National Commission on Women in Business established under title IV of the Women's Business Ownership Act of 1988, as amended by this section, shall terminate on November 30, 1996.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

SEC. 502. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 508. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

"(a) IN GENERAL.—

"(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under section 503 may, at the election of the borrower whose loan secures such debenture and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section.

"(2) PROCEDURE.—

"(A) IN GENERAL.—In making a prepayment under paragraph (1)—

"(i) the borrower shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

"(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(B) REPURCHASE PREMIUM.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

"(I) the unpaid principal balance due on the debenture on the date of prepayment; and

"(II) the applicable percentage rate, as determined in accordance with clause (ii).

"(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

"(I) with respect to a 10-year term loan, 9.5 percent;

"(II) with respect to a 15-year term loan, 9.5 percent;

"(III) with respect to a 20-year term loan, 10.5 percent; and

"(IV) with respect to a 25-year term loan, 11.5 percent.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that—

"(1) the debenture is outstanding and neither the loan that secures the debenture nor the debenture is in default on the date on which the prepayment is made;

"(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by sections 504 and 505, are used to prepay the debenture; and

"(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

"(c) NO PREPAYMENT FEES OR PENALTIES.—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

"(d) REFINANCING LIMITATIONS.—

"(1) IN GENERAL.—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2) of this section—

"(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

"(B) shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

"(2) JOB CREATION.—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

"(3) LOAN PROCESSING FEE.—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection (b)(2) may impose a loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'issuer' means the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

"(2) the term 'borrower' means a small business concern whose loan secures a debenture issued pursuant to section 503.".

(b) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Administration shall promulgate such regulations as may be necessary to carry out this section, including regulations establishing a deadline for receipt of applications for prepayment and refinancing under title V of the Small Business Investment Act of 1958.

(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. CONSOLIDATION OF FUNDING ACCOUNTS.

(a) IN GENERAL.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended by striking "(c)(1) There" and all that follows through paragraph (4) and inserting the following:

"(c) LOAN LIQUIDATION FUND.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—There is hereby established in the United States Treasury a fund to be known as the Loan Liquidation Fund (hereafter in this subsection referred to as the 'Fund').

"(B) AMOUNTS CONTAINED IN FUND.—All amounts received by the Administration prior to October 1, 1991, from the repayment of loans and debentures, payments of interest, and other receipts arising out of transactions entered into by the Administration pursuant to section 5(e), 5(g), 7(a), 7(b), 7(c)(2), 7(e), 7(h), 7(l), 7(m), or 8(a) of this Act, or title III, IV, or V of the Small Business Investment Act of 1958, shall be paid into the Fund. Balances existing in the revolving funds on or after the effective date of this paragraph shall be transferred to the Fund on such date.

"(C) OPERATING EXPENSES.—The Fund shall have available, without fiscal year limitation, such funds as may be necessary to finance the operational needs of the Fund.

"(2) ANNUAL STATUS REPORT.—As soon as practicable after the end of each fiscal year, the Administration shall submit to the Committees on Small Business and Appropriations of the Senate and the House of Representatives a complete report on the status of the Fund.".

(b) INTEREST PAYMENTS TO TREASURY.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (3); and

(2) in paragraph (3)(B), as redesignated, by striking clause (ii) and inserting the following:

"(ii) Upon the expiration of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest the Administration has collected during the preceding fiscal year on all financings made under the authority of this Act.".

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

"(A) not to exceed $300 for each loan servicing action requested after disbursement of the loan, including any substitution of collateral, loan assumption, release or substitution of a guarantor, reamortization, or similar action; and

"(B) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of the Small Business Act and the Small Business Investment Act of 1958; and

"(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph shall be utilized solely to facilitate the administration of the program that generated the excess amounts.".

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

"(i) have the greatest potential for—

"(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

"(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

"(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.".

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting "and loan guarantees" after "for loans"; and

(2) by inserting after "experienced microlending organizations" the following: "and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.".

SEC. 605. TECHNICAL CLARIFICATION.

(a) DEFENSE CONVERSION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(b) ADDITIONAL TECHNICAL CLARIFICATION.—Section 204 of Public Law 94–305 (15 U.S.C. 634d) is amended by striking "section 202" and inserting "this title".

SEC. 606. SECONDARY MARKET STUDY DUE DATE.

Section 6 of the Small Business Credit Enhancement Act of 1993 (15 U.S.C. 634 note) is amended by striking "16 months after the date of enactment" and inserting "November 1, 1994".

SEC. 607. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) STUDY AUTHORIZED.—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) EVALUATION.—After conducting the study under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a) on an annual and aggregated basis during the most recent 4-year period for which data are available. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) CONTRACTING WITH INDEPENDENT ENTITIES.—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

(1) to conduct the study pursuant to subsection (a); and

(2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) DATE.—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 608. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.".

SEC. 609. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking "September 30, 1994", and inserting "September 30, 1995".

SEC. 610. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.".

SEC. 611. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1) by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1), by striking "ten" and inserting "14".

SEC. 612. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON THE PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that is determined to be obscene.".

SEC. 613. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 612, is amended by adding at the end the following new subsection:

"(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

"(1) IN GENERAL.—Each applicant for financial assistance under this Act, including an applicant for a direct loan or a loan guarantee, shall certify that the applicant is not in violation of the terms of any—

"(A) administrative order;

"(B) court order; or

"(C) repayment agreement entered into between the applicant and the custodial parent or State agency providing child support enforcement services,

that requires the applicant to pay child support, as such term is defined in section 462(b) of the Social Security Act.

"(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall issue such regulations as may be necessary to enforce compliance the requirements of this subsection.".

The title was amended so as to read: "A bill to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.".

Mr. PRESSLER. Mr. President, I rise today as ranking member of the Senate Small Business Committee and as a cosponsor of S. 2060, the "Small Business Administration Reauthorization and Amendment Act of 1994." This legislation marks the culmination of the most thorough review of the Small Business Administration [SBA] in 4 years.

I am very pleased with the substance of S. 2060 for many reasons. This bill addresses the needs of the SBA and America's small business men and women in a comprehensive and fair manner. Not only does this act provide authorization levels for the SBA's programs for fiscal years 1995 through 1997, it also improves numerous programs in a variety of ways.

The road leading to this bill's consideration on the floor today is the result of cooperative efforts of many individuals, including my colleagues on the Small Business Committee, our counterparts on the House Small Business Committee, the Small Business Administration, and the millions of small business owners across the Nation. I especially would like to thank the chairman of the committee, Senator BUMPERS, for his good efforts on this legislation and for taking the leadership necessary to bring S. 2060 to the Senate floor. This being my first experience with a major SBA reauthorization bill since becoming ranking member of the committee last year, I truly have enjoyed the opportunity to work with Chairman BUMPERS.

Mr. President, S. 2060 is largely the result of many oversight hearings held during this second session of the 103d Congress. The committee met on February 22, 1994, to discuss the SBA's proposed budget for fiscal year 1995. In this hearing, SBA Administrator Erskine Bowles unveiled his plans to revamp many of the programs within the SBA. Of particular concern to me was the lack of far-reaching internal reorganization of the SBA nationwide. At this hearing, I stated my disappointment to Administrator Bowles for having abandoned attempts truly to reorganize the agency [due to] parochial interests. The SBA, although it serves a very worthwhile function in the Nation's small business community, has been fraught with waste, fraud, and abuse. I commend Administrator Bowles for pursuing the noble cause of streamlining the SBA. However, it was, and still is, my hope that the Administrator will take even bolder action to prevent future scandals.

Subsequent oversight hearings explored the effectiveness of other programs and possible modifications to them. On March 2, 1994, the committee held a hearing on the SBA's increasingly popular 7(a) business loan guaranty program and the Disaster Assistance Loan Program. This hearing was followed by a March 17 hearing covering the Microloan Demonstration Program and the business development programs, which include Small Business Development Centers [SBDC's], the Service Corps of Retired Executives [SCORE], and Small Business Institutes [SBI's]. Since that time, the committee also has conducted hearings to analyze the effectiveness of the section 503/504 development companies on May 17, and the minority small business/capitol ownership development [MSB/COD], or section 8(a) program on July 27.

S. 2060, in its reported form, owes a great deal to the findings of those hearings. The testimony provided by the administration, trade associations, and entrepreneurs played a significant role in this legislative process. Without their input, the bill before us would be incomplete. Mr. President, I would now like to outline some of the key provisions of S. 2060.

TITLE I—AUTHORIZATIONS

Title I of this bill establishes the SBA's authorization levels for fiscal years 1995, 1996, and 1997. I believe the authorization levels reflect a realistic expectation of what these programs will be able to receive in appropriations. These figures will allow these important programs to continue to serve small businesses and, in some

cases, even expand those services. With these funding levels as a guidepost, programs vital to stimulating small business growth like the 7(a) and 504 loan programs can continue to provide much needed credit. The title also authorizes Microloans, Small Business Investment Company [SBIC] debentures, specialized SBIC preferred stock and debentures, and SBIC participating securities. In addition, the title provides "such sums as may be necessary" for SBA business and homeowner disaster loans. These are direct loans made to individuals and businesses in communities which have been affected by natural disasters. I believe the bill does an excellent job of responding to the requests of the small business community and proposals offered by the administration while taking into account this Nation's current fiscal constraints.

As the centerpiece of SBA's assistance programs, the section 7(a) business loan guaranty program is of particular importance. Under this program, the agency acts as a partial guarantor of loans made by commercial lenders to small businesses across the country. Recent years have seen an explosion in demand for these loans. While there are a variety of reasons for this increased demand, the most significant has been the "credit crunch" faced by small entrepreneurs. In recent years—at least partially driven by the savings and loan crisis—lenders have become more reluctant to lend to small firms because of increased regulatory pressures. As a result, the 7(a) loan guaranty program has seen unprecedented activity.

A similar strain has been seen in SBA's 504 development company loan program in recent years. Under this program, the SBA guarantees 10- and 20-year debentures issued by Certified Development Companies [CDC's]. The proceeds of these debentures are used to fund loans with similar terms to small companies for plant acquisition, construction, conversion, expansion, or equipment. Mr. President, this is truly an amazing program. Virtually nowhere else does the Federal Government get this kind of bang for its buck. The program's subsidy rate is roughly one-half of 1 percent. This means that for every half cent we appropriate, one dollar is loaned to small business. This astounding leveraging capability, together with the stringent job creation requirements connected with the program, make the 504 program one of the most cost-effective economic development tools available to any state or local economy.

The increased program levels authorized by this bill reflect the committee's belief that Congress should demonstrate a strong commitment to providing adequate financing assistance to America's job creating engine—small business. Quite simply, both programs provide the kind of long-term financing not available in private markets. In addition, each does so at an extremely modest cost as compared to the job creation they provide.

Title I of the bill also authorizes the SBIC debenture program at the administration's requested levels, although the committee authorized levels for the SBIC participating security program are less than requested by the administration. This reflects the committee's view that the SBA's venture capital program, although it has a troubled history, has an important role to play in financing small business development. However, given the as yet untested nature of the SBIC participating securities program, the committee felt the most prudent course was not to expand the program too quickly. Quite frankly, the authorized levels also reflect a realistic view of what the programs can expect in terms of appropriations. In other words, the committee did not wish to send an unwarranted signal regarding future actual funding levels for these programs. I am hopeful that in the not too distant future, the new participating securities program will take a leading role in SBA's venture capital financing program.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

Title II of the bill makes changes to the financial assistance programs of the SBA. These programs include the Microloan Demonstration Program, export assistance and international trade loans, the CDC Accredited Lenders Program, and the SBIC, and specialized SBIC programs.

The legislation makes a number of changes to the SBA's Microloan Demonstration Program. In this area, the administration proposed that the microloan program be converted from direct to guaranteed loans. I am pleased with the way this legislation handles the administration's request. The program currently makes direct loans to non-profit and private lenders called "intermediaries." The intermediaries, in turn, make very small loans to disadvantaged businesses. In my view, the SBA failed to provide a compelling need to suddenly route loans to intermediaries through private lenders on a guaranteed basis. I believe that given the Microloan Program's demonstration status, such a dramatic shift should not be introduced at this time. Section 201 of this bill, consequently, allows the SBA to establish a pilot program to provide guaranteed—rather than direct—loans for up to twenty intermediaries. This is an excellent compromise.

Among the other changes made to the Microloan Program was an amendment I offered during markup. This amendment resulted directly from a field hearing I chaired last September on the Pine Ridge Indian reservation in South Dakota. During that hearing, witnesses testified as to the extreme scarcity of credit for businesses owned by American Indians. Many of the witnesses also discussed how technical assistance, in some cases including the teaching of basic business skills, was a vital part of effective small business assistance. Several witnesses also provided examples that demonstrated how small business developed through microlending effectively creates jobs and economic opportunities for often economically depressed American Indian reservations because micro-business development is a concept well suited to the American Indian culture.

This amendment creates incentives for intermediaries to make loans and provide technical assistance to small businesses owned by American Indians. Under current law, each loan made by the SBA to an intermediary is accompanied by a 25-percent grant to be used to provide technical assistance to those microenterprises borrowing from the intermediary. This grant is subject to a 25 percent non-Federal matching requirement. Additional technical assistance grant money equal to 5 percent of an intermediary's total outstanding balance of loans is available to those intermediaries maintaining a loan portfolio average of not more than $7,500. Thus, these intermediaries can receive a maximum of 30 percent in technical assistance grants. This additional grant is not subject to the matching requirement.

My amendment, which passed the committee on a unanimous vote, provides the extra 5 percent technical assistance grant to any intermediary making 25 percent of its loans to businesses owned by members of federally recognized American Indian tribes. Such intermediaries, in effect, would be treated just as those maintaining an average loan portfolio of not more than $7,500. However, in no case would an intermediary be able to receive more than 30 percent in technical assistance grants. In addition, my amendment provides additional incentives for intermediaries making 50 percent or more of their loans to businesses owned by members of federally recognized American Indian tribes. These intermediaries will receive the full 30 percent maximum in technical assistance grants. However, none of the grant would be subject to a matching requirement.

My amendment fits well with section 202 of the bill in making the Microloan Program more accessible to American Indian entrepreneurs. The Small Business Act in its current form does not allow governmental or quasi-governmental agencies to act as intermediaries. Unfortunately, adequate resources to provide the services that an intermediary must provide are scarce on most Indian reservations and to most tribal members. Often, the tribal government must take responsibility for providing such services.

Section 202, therefore, allows tribal entities to act as intermediaries. I fully support this change.

I also want to touch on Section 213 of this bill. This section establishes an Accredited Lenders Program for certain 504 development companies. As a part of the Accredited Lenders Program, the SBA is directed to develop a procedure for the expedited processing of loan applications or servicing actions submitted by qualified development companies.

In some instances, statewide development companies fall under the jurisdiction of more than one SBA district office. In the past, some statewide development companies have found loans it makes in one part of the State are treated differently than those made in another. This has not had so much to do with differences in the borrower or terms of the loans as with different consideration given by different SBA district office personnel. This being the case, the committee's report clearly states the committee's intent that any such development company qualifying for the Accredited Lenders Program shall be provided the same procedure for the expedited processing of its loan applications or servicing actions, regardless of which district office has responsibility for the particular transaction. This is not meant as a criticism of anyone within SBA. It simply is necessary to insure uniform treatment of development companies qualifying for the program.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

Section 301 of the bill clarifies requirements under the Small Business Act that allow Federal departments or agencies other than the SBA to issue size standards with the approval of the SBA Administrator. This section broadens the criteria available for setting such size standards, but does nothing to change the requirements that the standard be set by a rulemaking, including a proposal and an opportunity for public comment, and that the standard be approved by the Administrator.

I believe it may be necessary for the Committee to revisit this issue in the future as it seems not all Federal agencies understand the requirements relating to the setting of size standards contained in the Small Business Act. Specifically, I am referring to a recent rulemaking in which the Federal Communications Commission [FCC] set a size standard to define a "small cable system." It appears the FCC failed to secure the statutorily required approval by the SBA Administrator in this case. As a result, on July 21, Chairman BUMPERS and I, together with 14 of our Senate colleagues, wrote a letter to SBA chief counsel for advocacy Jere Glover requesting that he file an amicus brief in a lawsuit brought by the small cable industry against the FCC over the issue.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

I am pleased with the opportunities that will be created for SBDCs in title IV of the bill. Section 402 of this title raises the minimum level, also known as a "floor," that an SBDC may receive in Federal funds from $200,000 to $300,000, and raises the base level of funding from $100,000 plus the state's pro rata share to $200,000 plus the pro rata share. This increase is absolutely vital to the so-called "big rectangular" Western states, like South Dakota, that have a large geographic area to cover, but too small a population from which to draw a large enough pro rata share to support disproportionately large travel and programming expenses.

The title also authorizes the SCORE and SBI Programs for the next 3 fiscal years. These important programs provide grass roots counseling to small businesses for an extremely nominal Federal expenditure. The SCORE program teams experienced small business men and women and their wealth of experience with fledgling entrepreneurs who sometimes have little more than an idea and a great deal of enthusiasm.

I remain somewhat concerned with the manner in which SCORE funds are apportioned among the local chapters and have been studying this issue for some time. I am not convinced reliable standards exist to guide the national SCORE office in its decisionmaking process in this regard. While I considered amending this legislation in an effort to ensure equitable distribution of SCORE funding, after discussions with Chairman BUMPERS we have agreed to ask the General Accounting Office to study the program before any modifications are made. I will consider further legislative options once the results of that study are released.

SBI's throughout our Nation provide a valuable service and help our small businesses create jobs. This program, in conjunction with State colleges and universities, provides teams of business students and faculty members to work one-on-one with existing businesses. Although the administration did not request funding for the SBI Program, I am extremely pleased the committee acted to reauthorize it. The SBI program provides invaluable assistance to small businesses—especially those with little or no access to an SBDC—in a very cost effective manner. It also provides the students involved with invaluable hands on experience in the workings of an actual business.

I would be concerned if the committee or the administration were to seek an increase in SBA's financial assistance programs at the expense of technical assistance programs such as SCORE or SBI. If this were to happen, new businessowners could find themselves with capital, but with little or no additional assistance. If businesses should fail as a result and, in the process, default on their loans, neither our communities nor the Federal treasury would come out ahead.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Title V of the committee's bill tackles a very difficult problem that has been with us for several years. This title is designed to provide relief for borrowers stuck with onerous prepayment penalties under the former section 503 Development Company program. Like the 504 program, 503 loans were used to provide long-term, fixed-rate financing to small companies for plant acquisition, construction, conversion or expansion, equipment and job creation. However, presently some 3,500 borrowers under the old 503 program are locked into SBA-backed loans with interest rates reflecting the Government's cost of money 10 or more years ago. Thus, rates on these loans can run 12 to 15 percent and higher. Unfortunately, these borrowers are unable to refinance these loans because of extremely high prepayment penalties of which many borrowers say they were either unaware of or mislead about at the time they took out the loan.

Another unfortunate reality is that the Federal Government is simply not in a position to absorb the cost—by some estimates well over $100 million—of totally relieving these borrowers of their obligations. However, this year for the first time, we were able to secure $30 million in appropriated funds to address the problem. It then became the committee's challenge to determine how to spread this relief as equitably as possible. I believe the bill accomplishes this goal. Borrowers wishing to refinance will be required to pay a reduced penalty. However, the legislation at least makes refinancing possible for many who simply find it impossible under current law.

TITLE VI—MISCELLANEOUS AMENDMENTS

Title VI of the committee bill makes a number of improvements and corrections in a wide variety of SBA programs. In addition, the title allows for certain fees to be collected and requires that studies be conducted.

Throughout the reauthorization process, one proposal that caused me great concern was the administration's request that it be allowed to collect a $15 per hour fee for SBDC counseling services. SBDC's provide valuable counseling service to established and fledgling entrepreneurs. In some areas of the country, the fee may not have been unreasonable. However, in many rural States such a requirement could easily close the door of opportunity for a potential or new entrepreneur with limited resources. In addition, I feel that such a fee would unnecessarily encumber SBDC staff already faced with limited time and money. I am extremely pleased that S. 2060 does not authorize SBA to charge or collect such fees.

The last topic I will discuss involves another amendment I offered during markup of S. 2060. This amendment, also adopted on a unanimous committee vote, prohibits the SBA from providing assistance to businesses engaged in the production and/or distribution of obscene products or services. The amendment was offered in response to the SBA's recent repeal of its "opinion molder rule" promulgated in 1953. Under that rule, the administration, with few exceptions, could not provide assistance to small businesses engaged in the "creation, origination, expression, dissemination, propagation or distribution of ideas, values, thought, opinions, or similar intellectual property, regardless of medium, form, or content." With the repeal of the rule, businesses such as newspapers, movie theaters, radio stations, and bookstores now are eligible for administration assistance.

However, members of the committee shared my concern that a blanket repeal of the rule also would allow businesses involved in the production and distribution of obscene products and services to seek SBA support and that the agency would have no means by which to deny such loans or other assistance. My amendment makes it clear the SBA is not authorized to provide any assistance to those engaged in obscene businesses—and thus not entitled to first amendment protection—as defined by the U.S. Supreme Court. The amendment is intended to cover the narrow range of adult theme businesses, including adult book stores, adult theaters, adult film and video producers, and adult film and video distributors. It is not meant to apply to businesses such as convenience stores that may carry adult materials that do not fall within the Supreme Court's definition of obscenity.

Mr. President, I once again offer my full support for this legislation. I truly believe the program levels authorized will adequately provide the SBA with the ability to continue to provide its invaluable services. The SBA is vital to the small businesses of this country. Without the support of 7(a) loans, SBIC's, Microloans, 502/504 development companies, and the many business development programs, the viability of this Nation's small businesses certainly would be placed in jeopardy. For many budding entrepreneurs, the assistance the SBA can provide is just the catalyst they need to flourish. As you know, Mr. President, America's No. 1 job creators are this Nation's small businesses. In a time when so much Congressional action stymies the growth of small businesses, I firmly believe that S. 2060 is an excellent vehicle by which Congress can improve the economic environment for Main Street businesses.

Mr. BUMPERS. Mr. President, S. 2060 is the first SBA reauthorization to be considered by Congress since President Clinton took office. It is a dramatic departure from the hold-the-line, do-as-little-as-necessary policy of the previous two administrations. President Clinton's fiscal year 1995 budget and legislation contain significant increases in SBA loan programs aimed at economic development and meeting the credit needs of small firms in a changing economy. This bill is major economic legislation which is badly needed and which can and will help further the Nation's recovery.

The committee-reported bill responds to the President's requests to the greatest extent possible in a time of fiscal constraints and sends a strong economic message. The small business sector has been and will remain the major source of new jobs in the American economy. Paradoxically, small businesses face more difficulty than ever in obtaining the capital required for business startups, expansion, and operating capital.

In business loans, loan guarantees and bond guarantees, S. 2060 as reported by the Small Business Committee authorizes $16.033 billion in financial assistance to small businesses in 1995, $18.599 billion in fiscal year 1996, and $23.048 billion in 1997. The role of the Small Business Administration under the energetic leadership of Administrator Erskine Bowles is more vital than ever before in sustaining and expanding the economic recovery now underway.

I introduced S. 2060 on May 3, 1994. The bill authorizes SBA programs for 3 years, makes changes in a number of existing programs, and extends certain expiring provisions of law. At a markup on August 10, 1994, the committee considered and adopted a chairman's substitute amendment and several other amendments detailed below.

Prior to the markup, the committee held budget or oversight hearings on February 22, March 2, and March 17. Additionally, on May 17, a full committee hearing examined problems with prepayment penalties under the former section 503 Development Company Program and oversight of the section 504 program which succeeded the 503 program. The committee heard testimony on S. 737, a bill introduced by Senator HATFIELD which eases prepayment penalties imposed on borrowers of high interest bearing loans under the section 503 program. The committee has included a substitute for S. 737 as title V of the committee amendment.

TITLE I—AUTHORIZATIONS

Section 101 of the committee amendment authorizes SBA loan programs and certain business development programs. Included are sec. 7(a) loan guarantees, section 502 and 504 development company loans, microloans, Small Business Investment Company [SBIC] debentures, specialized SBIC preferred stock and debentures, and SBIC participating securities. Also included is a "such sums as may be necessary" authorization for SBA business and homeowner disaster loans. These are direct loans made to individuals and businesses in communities which have been affected by natural disasters.

Funding for SBA programs with the exception of disaster loans are detailed in the following chart. The committee considered the administration's funding requests and the levels set in a House-reported bill, H.R. 4801, which has not yet passed the House. It is possible that final House levels represented in the chart could be changed by floor action.

I ask unanimous consent to print the chart in the RECORD.

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

SBA REAUTHORIZATION FUNDING LEVELS

	Appropriated and reprogrammed fiscal year 1994	Proposed fiscal year 1995			Proposed fiscal year 1996			Proposed fiscal year 1997		
		Senate	House	Admin	Senate	House	Admin	Senate	House	Admin
7(A) Guarantees [1]	[2] $8.788.4 billion.	$9 billion	$7.815 billion	$11.5 billion	$10 billion	$10.93 billion	$13.5 billion	$12 billion	$14.2 billion	$15.5 billion
Defense conversion (7(A)(21)) (not funded)		$2.0 billion	$1.5 billion	$0	$2.5 billion	$0	$0	$3.5 billion	$0	$0
Microloans direct	$86.6 million	$110 million	$130 million	[3] $110 million	$175 million	$195 million	[3] $175 million	$250 million	$270 million	[3] $250 million
Microloan-TA	$9 million	$45 million	$0	$15.1 million	$65 million	$0	$0	$98 million	$0	$0
Micro guarantee pilot (new)		$15 million	$20 million	[3] $15 million	$20 million	$20 million	[3] $20 million	$20 million	$20 million	[3] $20 million
504/502 Development Cos.	$1.54 billion	$2.3 billion	$2.2 billion	$2.3 billion	$2.8 billion	$2.5 billion	$3.8 billion	$3.5 billion	$3 billion	$5.7 billion
SBIC debentures	$100 million	$230 million	$260 million	$210 million	$250 million	$350 million	$250 million	$310 million	$500 million	$310 million
SBIC participating	$207.8 million	$500 million	$500 million	$550 million	$750 million	$750 million	$1.1 billion	$1.125 billion	$1.125 billion	$1.7 billion
Mesbic stock (SSBIC)	$15 million	$33 million	$33 million	$23 million	$39 million	$39 million	$24 million	$45 million	$45 million	$25 million
Mesbic guaranty (SSBIC)	$17.9 million	$55 million	$25 million	$65 million	$70 million	$55 million	$70 million	$75 million	$55 million	$75 million
Surety bond	$1.7515 billion	$1.8 billion	$1.8 billion	$2 billion	$2 billion	$1.8 billion	$2 billion	$2.2 billion	$1.8 billion	$2 billion
Score	$3.5 million	$3.5 million	$3.5 million	[4] $3.08 million	$3.75 million	$3.67 million	$0	$4 million	$3.86 million	$0
SBI	$3 million	$3 million	$3 million	[4] $0	$3.25 million	$3.15 million	$0	$3.5 million	$3.31 million	$0
SBDCs: Regular	$71.3 million	$70 million	$70 million	[4] $67 million	$77.5 million	$77.5 million	$0	$85 million	$85 million	$0

SBA REAUTHORIZATION FUNDING LEVELS—Continued

	Appropriated and reprogrammed fiscal year 1994	Proposed fiscal year 1995			Proposed fiscal year 1996			Proposed fiscal year 1997		
		Senate	House	Admin	Senate	House	Admin	Senate	House	Admin
SBDCs: Defense conversion (not funded)		$25 million	$0	$0	$25 million	$0	$0	$25 million	$0	$0

[1] The Administration request includes the non-guaranteed portion of Sec. 7(a) loans which, in SBA's view, is required by credit reform. The House and Senate bills include only the SBA share of the program in conformance with section 20 of the Small Business Act.
[2] Includes $1.8 billion carryover.
[3] The Administration request combines direct and guaranteed amounts.
[4] Administration requests are from Budget submission only for these programs. No authorizing language was requested.

SEC. 7(a) BUSINESS LOANS

Mr. BUMPERS. Mr. President, SBA's flagship program remains the sec. 7(a) business loan guaranty program under which the agency acts as a partial guarantor of loans from commercial lenders to small firms. With SBA's guaranty of 70–90 percent of the loan amount, banks and other lenders are willing to provide longer term financing than would otherwise be available, and also larger loan amounts at lower interest rates than the market and the regulatory environment would permit without SBA's participation.

The committee has provided separate authorizations for the regular 7(a) program and defense conversion loans under section 7(a)(21). Demand for 7(a) loan guarantees has risen sharply since 1991, and Congress has labored to ensure that adequate program levels are available to meet small business credit needs in a recovering economy. No decrease in demand is expected in the foreseeable future for regular 7(a) loans, while the 7(a)(21) program anticipates new borrowers as the economy continues to shift away from the heavy emphasis on national defense before the end of the cold war. This bill looks to the needs of a post-cold-war economy.

Defense conversion loans under sec. 7(a)(21) were authorized in 1991 but have received no funding to date. The program will assist businesses which have been severely adversely affected by reductions in defense expenditures, and those located in communities which have been adversely affected by base closings and curtailment of defense procurement. Members of the Armed Forces who have left the service earlier than planned and who wish to establish small businesses are also eligible for financing under section 7(a)(21).

For defense conversion loans, S. 2060 authorizes $2 billion in fiscal year 1995; $2.5 billion in fiscal year 1996 and $3.5 billion in fiscal year 1997. These are in addition to regular 7(a) program levels of $9 billion in fiscal year 1995; $10 billion in fiscal year 1996; and $12 billion in 1997. While these are substantial increases, they are supported by the administration and by program experience in the last 3 years.

Several factors have contributed to the growth of the 7(a) program in the decade of the 1990's. These include increased regulatory pressure on banks following the savings and loan collapse and ensuing reform legislation, an interest rate environment which made purchase of government securities more profitable for banks than small business lending, and perhaps increased paperwork burdens for banks. All of these trends discouraged small business loans. As a result, unprecedented numbers of borrowers have turned to the SBA 7(a) program, and the section 504 Development Company Program for financing which the private market was unable to provide.

Congress responded to increased demand for 7(a) loans in 1992 with an emergency supplemental appropriation which, unhappily, added to the deficit. In 1993, escalating demand caused the program to shut down for several weeks before Congress again responded, but this time with a reprogramming of unexpended Federal funds from other programs. This action did not add to the deficit, but this course could not be relied on for future funding for the 7(a) program. Congress also responded in 1993 with legislation which reformed the 7(a) program and substantially reduced the cost of loans. Public Law 103–81 reduced the guaranteed percentages of some loans by SBA and imposed a fee of 40 basis points of 7(a) loans sold to investors in the secondary market. This legislation reduced the subsidy cost of the program as calculated under the Credit Reform Act from 5.45 percent to 2.15 percent, thereby more than doubling the program levels which would be available from a fixed amount of appropriated funds. This reform was sought by the Clinton administration and generally supported by the lending community as the responsible course of action in a time of limited federal resources and obvious need for small business financing.

Growth of the 7(a) and 504 program has contributed to the economic recovery in many areas of the country and has prevented the credit crunch from causing even more pain in regions which have yet to fully benefit from the recovery. The program levels in this legislation represent a strong commitment by Congress to furthering and broadening the economic recovery by ensuring that adequate and affordable financing is available to the most vibrant sector of the economy, small business.

DIRECT LENDING

The committee amendment does not authorize SBA direct loan programs which have existed in the past, with the exception of the Microloan Program, the Specialized SBIC Preferred Stock Program, and the Disaster Loan Program, previously noted. This course is consistent with an amendment I offered earlier this year to the Senate Appropriations bill for SBA. That amendment moved funding from direct loans to raise fiscal year 1995 program levels for the sec. 504 and SBIC participating security programs. Appropriations for direct loans have so diminished over the last several years that they can hardly be called national programs. Often, the meager funds appropriated for direct loans have given business owners false hope that a direct loan could be obtained from SBA when, in fact, insufficient funds were available.

The committee concluded that the limited resources could more effectively be used to support loan guaranty programs which have lower subsidy costs under credit reform. Moreover, the Microloan Program is being expanded so that borrowers who might have been served under the direct loan programs should be able to seek financing from a microloan intermediary. Microloan borrowers receive training and technical assistance which is not available to direct loan borrowers.

SEC. 504 DEVELOPMENT COMPANY LOANS

Under the 504 program, SBA guarantees a 10- or 20-year debenture issued by a Certified Development Company [CDC], the proceeds of which fund a loan to a small firm for plant acquisition, construction, conversion, expansion or equipment. The SBA portion of the loan covers not more than 40 percent of the project, with a conventional lender providing 50 percent financing and the borrower providing the remaining 10 percent as equity.

The program is attractive to banks because SBA and the CDC agree to take a secondary position on all of the collateral, so the back is effectively overcollateralized. The borrower gets a long-term, fixed-rate loan with an interest rate comparable to the government's cost of money for a similar term.

The committee has worked to meet the ambitious funding levels proposed by the administration for the 504 program because it provides a cost-effective economic development tool. With a subsidy cost of barely more than one-half of one percent and a strong job creation requirement, the 504 program has boosted economic growth in the

communities where it has been utilized.

Congress recently approved and the President signed legislation increasing the fiscal year 1994 authorization level for sec. 504 from $1.2 billion to $1.5 billion. The committee amendment raises the fiscal year 1995 program level to $2.3 billion, with further increases to $2.8 billion in fiscal year 1996, and $3.5 billion in fiscal year 1997. The program levels for fiscal year 1996 and 1997 are less than sought by the administration but more than provided by the House. For a program which was funded at $500 million in 1992, these are large increases, but they are warranted both by need for long-term, fixed-rate, financing which the market does not provide and by the modest cost of the program.

SBIC DEBENTURES AND PARTICIPATING SECURITIES

Program levels for SBIC debentures in the committee amendment are somewhat less than those set by the House because limited resources should be focused primarily to the new participating security program which was enacted in 1992 but which remains untried. Debenture financing, however, remains an important financing mechanism for some SBIC's and their clients whose business plans do not fit with the participating program.

The administration has sought extremely ambitious increases for the participating security program. The House bill provides $500 million of the $550 million request for 1995. In the outyears, the House bill authorizes $750 million in 1997 compared with the request of $1.1 billion. In 1998, the House bill provides $1.125 billion of the administration's $1.7 billion request. The Senate bill agrees with the House for all 3 years.

The committee concluded that the administration's proposed levels for participating securities are not prudent in light of nonexistent experience with this new but promising program. Moreover, the appropriations environment makes increases of the magnitude sought by the administration extremely unlikely. With a subsidy cost of almost 16 percent for the debenture program and approximately 9 percent for the participating security program, SBIC financing remains among the most expensive of all SBA loan programs. At the same time, I am hopeful that the new participating security will reinvigorate venture capital financing for small business and perhaps produce economic successes comparable to the SBIC program's past economic marvels which include Apple Computer, Intel, Federal Express, Cray Research, Compaq and others.

BUSINESS DEVELOPMENT PROGRAMS

The committee amendment gives statutory authorization for three important business development programs: the Service Corps of Retired Executives [SCORE], Small Business Institutes [SBI], and a special authority for assistance to firms affected by defense budget reductions through Small Business Development Centers [SBDC's]. SCORE and SBI both leverage private sector resources on a volunteer basis to provide valuable management counseling to small business owners. SCORE uses the talents of retired business people to counsel small business owners, while SBI works through faculty and graduate business-school students.

The authorized levels of $3.5 million for SCORE in fiscal year 1995, and $3 million for SBI, with modest inflation adjustments in the outyears, are more than matched in value by the time contributed by volunteers.

The committee adopted an amendment by Senator LEVIN which authorizes SBA, as part of its management assistance duties, to counsel small businesses and entrepreneurs of the benefits and risks of franchising. Franchising is an important and growing facet of our economy and can be an opportunity for people who want to be their own boss and who are willing to work hard. However, there are risks associated with franchising. This amendment aims to avoid problems before they happen by educating prospective franchisees.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

MICROLOAN DEMONSTRATION PROGRAM

At the March 17 oversight hearing and in its budget submission, the administration enthusiastically endorsed the Mircoloan Demonstration Program and called for its expansion. The administration also proposed a pilot program to test the idea of SBA guaranteeing loans to microloan intermediaries.

The committee strongly supports the Microloan Program and has included a statement of policy in S. 2060 clarifying that the program should be accessible to eligible small businesses regardless of their industry or geographic location. Some areas of the country are served by intermediaries which provide microloans only to certain types of businesses such as manufacturing. In those cases, SBA should permit more than one intermediary to serve the given area.

Other areas are not served by any intermediary. To help remedy this situation, the committee included a provision to permit certain native-American tribal organizations to become intermediaries. Previously, such entities were ineligible to participate in the program because they did not meet the statutory definition of intermediaries. SBA should actively seek and train potential intermediaries to serve areas where microloans are currently unavailable.

As also requested, the committee has authorized a 3-year guaranteed loan pilot program under which the SBA may guarantee between 90 and 100 percent of loans to 20 intermediaries from for-profit or non-profit lenders, or groups of such lenders. Ten intermediaries will be located in urban areas and 10 in rural areas. The loans will be for 10 years with no interest or principal due during the first year. Only interest will be payable during the second through fifth years and both interest and principal will be due during the final 5 years of the term. SBA may use appropriated funds to support these guarantees, including a buy-down of interest rates from lenders.

The committee has increased the authorized number of Microloan Demonstration Programs from 110 to 150 in fiscal year 1995 and to 200 in subsequent fiscal years. We increased the maximum amount an intermediary may borrow from SBA from $1.25 million to $2 million, eliminated the cap on the number of programs per State and, to conform with these two changes, increased the cap on the total loans a State may receive under the Microloan Program from $2.5 million to $10 million.

EXPORT ASSISTANCE LOAN PROGRAM

The administration requested three provisions intended to harmonize SBA's Export Loan Program with the Export-Import Bank's Export Loan Program. These provisions will enable SBA to work together with the Export-Import Bank and the Department of Commerce on jointly operated Export Assistance Centers. These centers will function as one-stop shops for businesses to obtain export counseling and financing, regardless of the size of the business.

The included provisions allow SBA to guarantee a variety of forms of credit, including standby letters of credit and revolving lines of credit for small businesses, small business export trading companies, and small business export management companies. SBA may guarantee between 85 and 90 percent on such credit. The maximum amount of an export loan under SBA's program is increased to $1.25 million, and the limit for working capital, supplies, or other export purposes has been increased to $750,000.

504 DEVELOPMENT COMPANY ACCREDITED LENDERS PROGRAM

The committee has included provisions to establish an Accredited Lenders Program [ALP] for certain section 504 development companies. This Program is based on a bill introduced by Senator WELLSTONE on June 23, 1994, S. 2235, the Small Business Accredited Lenders and Packagers Act. Senator WELLSTONE, as chairman of the Subcommittee on Rural Economy and Family Farming, held a hearing on July 21, 1993, on the Federal role in rural economic development. Testimony indicated a need for expedited processing of section 504 loans in rural areas.

As part of the Accredited Lenders Program, the administration is directed to develop a procedure for expedited processing on loan applications or servicing actions submitted by qualified development companies.

SMALL BUSINESS INVESTMENT COMPANY AND SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY PROGRAMS

In April 1994, the General Accounting Office [GAO] issued a report entitled "Small Business Administration: Inadequate Documentation of Eligibility of Businesses Receiving SSBIC Financing," which was requested by Congressman LAFALCE, chairman of the House Small Business Committee. GAO noted that 37 percent of all specialized small business investment companies [SSBIC's] had poor records or no records concerning the eligibility of their borrowers for financial assistance under the program.

The committee amendment includes a requirement that small businesses seeking financial assistance from SBIC's and SSBIC's certify to SBA that they meet the eligibility requirements of the program. S. 2060 also requires an SBIC or SSBIC to certify to SBA that it has reviewed the application for assistance and that there is no documentary or other indication that the applicant does not meet the program requirements.

With respect to the SBIC participating security program, I am concerned with the number of high-dollar applications the administration has received and with the lack of a policy with respect to funding applications for participating securities submitted by smaller SBIC's. The Committee included a provision which requires half of each year's appropriations for participating securities to be reserved for smaller SBIC's, those with private capital of less than $20 million. Since proportions are not always obtainable or desirable, the bill permits the administrator to use more than 50 percent of the annual appropriations for participating securities for larger SBIC's if, during the last quarter of the fiscal year, there is a lack of qualified applicants among smaller SBIC's.

TITLE III—SURETY BOND GUARANTEES

PREFERRED SURETY BOND GUARANTEE PROGRAM

Section 302 of the committee substitute extends the pilot Preferred Surety Bond Guarantee Program for 1 year, until September 30, 1995.

The Preferred Surety Bond Guarantee [SBG] Program was authorized on a test basis by title II of Public Law 100-590, the Small Business Administration Reauthorization and Amendments Act of 1988. The Preferred SBG Program is aimed at encouraging the participation of the large, so-called standard surety firms in the SBA Surety Bond Guarantee Program. Under the pilot program, a surety firm approved for participation is permitted to use its own bond underwriting, administration, and claims procedures without obtaining SBA's approval for the application of the SBA guarantee on a case-by-case basis. In exchange, the preferred surety's guarantee is limited to 70 percent rather than the 80 or 90 percent SBA guarantees available in the so-called SBA Prior-Approval SBG Program. One main objective of the pilot Preferred SBG Program is to expand access to surety bonding for small business concerns owned and controlled by socially and economically disadvantaged businesses often referred to as SDB's.

Regulatory implementation of the pilot Preferred SBG Program was slower than anticipated. To provide an adequate test period, the program's expiration date was previously extended from September 30, 1992, to September 30, 1994, by section 216 of Public Law 101-574, the Small Business Administration Reauthorization and Amendments Act of 1990.

The preferred surety program permits SBA to delegate to a surety carrier the authority to issue, monitor, and service surety bonds subject to the administration's guarantee without prior approval. Although less than 20 percent of SBA's surety bond guarantees are issued under this program, it is an efficient method. S. 2060 extends this authority for 1 year until September 30, 1995, in order to afford the Committee additional time to conduct thorough oversight hearings on the pilot program.

MANUFACTURING APPLICATIONS AND EDUCATION CENTERS

The committee has included a provision that directs the SBA to promote the award of contracts to manufacturing application and education centers. These centers are entities which have the capacity to assist small businesses in a shared-use production environment and which offer technology demonstration, technology education, technology application support, and technology advancement support services. The administration is to promote such awards by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently being provided by foreign sources.

In addition, S. 2060 further supports small businesses participating in the centers by authorizing an exception to the requirement that 50 percent of the work on a contract be performed by the business to whom the contract is awarded. The exception applies to any manufacturing contract performed by a small business in conjunction with a manufacturing application and education center.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

COSPONSORSHIP AUTHORITY

Since 1984, SBA has had authority to cosponsor business development activities with non-profit and for-profit entities. After some initial difficulties with for-profit cosponsorship, Congress imposed certain restrictions on the Agency's use of such cosponsorships. SBA must ensure that it receives appropriate recognition and publicity, that the cosponsorship does not constitute or imply an SBA endorsement of the cosponsor's product or service, and that SBA avoids unnecessary promotion of products or services.

Since the enactment of these requirements, cosponsorships with for-profit entities have enabled SBA to leverage its resources to reach a larger population of small businesses. The current authority is extended in S. 2060 to September 30, 1997.

SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

The Small Business Development Center [SBDC] Program is a public-private partnership administered by the SBA which provides counseling, training, and other business development assistance to small businesses at over 900 sites nationwide. The Federal contribution is fully matched by State governments and other SBDC participants. The administration intends to make even greater use of the SBDC program than in previous years, and other Federal agencies are considering using the SBDC network to provide information and other services to small businesses. Demand for the program has outstripped its abilities based on current funding.

Since both Houses have passed fiscal year 1995 appropriations bills which contain SBDC funding, the committee has included provisions to increase the authorized national program for SBDCs beginning in fiscal year 1996. The program level will increase to $77.5 million in fiscal year 1996, and in fiscal year 1997 and later years, the authorized level will be $85 million.

In addition, beginning in fiscal year 1996, the funding floor will be raised from $200,000 to $300,000. Eleven States—Delaware, North Dakota, South Dakota, Wyoming, Montana, Vermont, Rhode Island, Idaho, Alaska, the Virgin Islands and the District of Columbia—are currently funded at the $200,000 floor. Together with matching funding requirements, the changes will provide those States with a minimum of $600,000 to operate their SBDC networks. Both the increase in the national program and in the funding floor will only take place if adequate appropriations are made available. If not, the current funding formula will remain applicable.

The committee has also included a provision that permits an SBDC to contract with another Federal department or agency to provide small business services, if the contract is approved in advance by the associate administrator for SBDCs. The 50 percent matching funds requirement is not applicable to such contracts.

WOMEN'S BUSINESS DEMONSTRATION PROJECTS

S. 2060 extends the authority for the women's business training demonstration projects for 3 years until September 30, 1997. This program was designed to permit private organizations to provide financial assistance, management assistance, and marketing assistance to women entrepreneurs. The women's demonstration projects were created by the Women's Business Ownership Act of 1988.

NATIONAL COMMISSION ON WOMEN IN BUSINESS

The committee unanimously adopted an amendment offered by Senator MOSELEY-BRAUN on behalf of herself and Senator LAUTENBERG which creates a National Commission on Women in Business. The amendment was cosponsored by Senators BUMPERS, HARKIN, WOFFORD, and KOHL. The Commission will replace the National Women's Business Council which will expire shortly. The commission is in lieu of a 32-member interagency committee created in the House bill. The existing council, created by the Women's Business Development Act of 1988, was a nine-member board charged with strengthening opportunities for women businessowners. The committee chose creation of the new commission over an extension of the council or the more cumbersome structure chosen by the House because we believe the public-private structure of the commission is preferable to a large committee of Federal bureaucrats in addressing the issues facing women in business. The commission's duties are streamlined to increase the group's focus and effectiveness.

The commission will be composed of 14 members selected equally from both the public and private sectors. The commission's investigative and reporting responsibilities include the following: First, access to credit and capital, second, data collection on women-owned businesses, third, encouragement of women's participation in the White House Conference on Small Business, fourth, advancement of female executives, and fifth, development and growth of women-owned businesses.

The private sector members shall include three female small businessowners and four representatives of national women's business organizations. Terms of service for commission members is 1 year, but a member may serve for two consecutive terms.

Public sector members will include representatives from the Departments of Treasury, Labor, and Commerce, the General Services Administration, the Federal Reserve Board, and also the Administrator of the SBA and the Assistant Administrator of the SBA Office of Women's Business Ownership.

The commission's chairperson will be one of the women businessowners who shall be selected by the President. The vice-chairperson will be the Assistant Administrator of the SBA's Office of Women's Business Ownership.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Title V of the committee amendment provides relief from onerous prepayment penalties now imposed on borrowers under the former section 503 development company program. The 503 program provided long-term, fixed-rate financing to small firms for plant acquisition, construction, conversion or expansion, and equipment. The program differed from the current 504 program chiefly in that development company debentures—which finance individual loans—were sold to the Federal Financing Bank with SBA's endorsement.

Since 1986, these same debentures have been sold in the private capital markets with SBA's guaranty. When the Treasury was the sole purchaser of 503 debentures, the Government was able to dictate terms to the borrowers which have proved burdensome and unfair in light of changes in interest rates since the early 1980's.

Presently, some 3,500 section 503 borrowers nationally are saddled with SBA-backed loans with interest rates reflecting the Government's cost of money more than a decade ago. Many 503 loans carry interest rates from 12–15 percent and higher, and borrowers are unable to refinance at today's lower rates because of the prepayment penalties contained in the debentures. Borrowers have been hampered in growth and job creation by these onerous interest rates. Some borrowers testified that they were unaware of the prepayment issue when they entered into the loan. Others said that they were actually misled by either development company officials or by SBA employees on the issue when the loan was made. Senator HATFIELD characterized the Government's policy toward these borrowers as "loansharking."

The prepayment penalty problem has festered for many years, and this is not the first congressional effort to resolve the problem. In 1988, Congress passed S. 437, a bill introduced by Senator METZENBAUM which would have modified the prepayment penalty and would have benefited both borrowers and the Treasury. That bill was scored by the CBO, under rules then in effect, as reducing the deficit by about $50 million in the ensuing fiscal year. President Reagan pocket vetoed this bill following the adjournment of Congress. Subsequent changes in scoring rules under the 1990 Credit Reform Act prevented loan prepayments from being considered as revenues, and this scoring change seriously delayed resolution of the issue.

Last year, Senator HATFIELD took up the cause of the section 503 borrowers and introduced S. 737. Our committee held a hearing on the Hatfield bill on May 17, 1994, at which SBA representatives and several 503 borrowers testified. Additionally, the Clinton administration endorsed prepayment relief for these borrowers, and the President's fiscal year 1995 budget proposal contains $30 million in funding.

Unfortunately, the administration proposal falls short of meaningful relief to all borrowers. The administration would substitute the current 504 prepayment penalty for the 503 loans.

This change would allow any borrower who had repaid his loan for more than half of its term to face no penalty at all. However, the administration proposal of only $30 million in appropriated funds would assist a much smaller group of borrowers than the plan included in S. 2060.

The committee concluded that the Hatfield bill, which was estimated by CBO to cost $167 million, was too expensive, and the administration bill and budget request of $30 million was too meager. The House bill, on the other hand, allows a very small amount of help in the form of an interest rate buy-down for all borrowers. Relief, under the House bill, would be limited by the amount of appropriated funds available, which seems certain to be $30 million in fiscal year 1995, and probably zero thereafter.

Complete relief for a very few and meager relief for all borrowers were equally unacceptable, so the committee adopted a third course of action which supplements appropriated funds with the proceeds of new, reduced prepayment penalties.

I believe that any solution to this problem must include fairness to the taxpayers and the Treasury as well as the distressed and aggrieved borrowers. The committee amendment compromises these competing interests. While no borrower will get off scot-free, as some would under the administration's proposal, virtually all borrowers should be able to refinance at today's rates upon the payment of a modest penalty.

The committee amendment provides borrowers the right to prepay 503 loans upon the payment of a substitute penalty set forth in the following schedule: First, with respect to a 10-year term loan, 9.5 percent; second, with respect to a 15-year term loan, 9.5 percent; third, with respect to a 20-year term loan, 10.5 percent; and fourth, with respect to a 25-year term loan, 11.5 percent.

These penalties are based on the outstanding principal balance of the loan and accrued interest at the time of prepayment and are estimated to cover approximately half of the cost of these refinancings to the Federal Financing Bank. The remainder of the cost will be covered by SBA appropriated funds contained in the President's fiscal year 1995 budget and in the House and Senate fiscal year 1995 appropriations bills for the Departments of Commerce, Justice, State and Related Agencies. The

committee estimates, based on data from SBA, that the sum of these two amounts will allow at least 75 percent of all affected borrowers to prepay, which should include virtually all borrowers likely to choose prepayment.

The committee amendment makes clear that all costs of refinancing may be included in a new section 504 loan, including the penalty here enacted. A borrower may, however, choose any other sources of financing available to him.

TITLE VI—MISCELLANEOUS AMENDMENTS

The committee amendments permits SBA to collect and retain certain user fees and loan action fees. The administration requested and the committee agreed to permit the agency the authority to impose fees for loan servicing actions such as loan extensions or other modification of the terms of a loan. Commercial lenders routinely charge substantial fees for such actions. SBA is permitted under the amendment to charge not more than $300 for loan actions. This figure represents a maximum which will be imposed only for the most costly loan actions.

The amendment also permits SBA to collect and retain reasonable fees for publications produced by SBA. SBA has for many years produced and distributed pamphlets and the like on a variety of business issues. These range from general information on starting a business to specialized information on particular types of businesses such as day care centers. A number of valuable publications from years past are outdated, and SBA has not had resources sufficient to develop and publish new ones. The committee urges SBA to make publications available through its resource partners, including SCORE, SBDC's, and SBI's.

The committee amendment does not include the administration proposal to authorize the SBA to collect fees for SBDC counseling.

Section 607 of the committee amendment requires SBA to conduct a broad-ranging economic impact study for the 7(a) and 504 programs. This requirement parallels a similar requirement contained in the Senate report to accompany H.R. 4603, the appropriations measure for SBA for fiscal year 1995.

Insofar as the 7(a) program is concerned, SBA should build on the results of the Price Waterhouse study released in 1991, and should conduct the most comprehensive assessment possible of the macroeconomic impact of these programs, including job creation and the impact on Federal and State revenues from business expansions. The study should also consider the default and loss rates and projections for both programs. The administration may use outside contractors to the extent necessary.

The committee adopted an amendment offered by Senator MOSELEY-BRAUN on behalf of Senator LAUTENBERG which requires applicants for SBA financial assistance to certify in writing that he or she is not in violation of any court order, administrative order, or any other agreement requiring the applicant to pay child support. This amendment was cosponsored by Senators BUMPERS, KOHL, HARKIN, MACK, and HUTCHISON.

Since 1975, Congress has made a concerted effort to combat the problem of parents who fail to honor their commitments to provide financial support for their children. Almost 20 years ago, the Child Support Enforcement program was enacted. Since that time and with every change to that program, the rate of collection has increased. This amendment will provide another tool against those parents who refuse to acknowledge or comply with their obligations to provide for their offspring. The cost of implementation of this requirement will be nominal.

Mr. President, this bill has been cosponsored by Senators PRESSLER, NUNN, LEVIN, HARKIN, KERRY, LIEBERMAN, WELLSTONE, HEFLIN, MOSELEY-BRAUN, and CHAFEE. It is good legislation which can only help the economy move forward and help to address the difficult challenges facing America's small business men and women. I urge all my colleagues to support S. 2060.

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1993

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 337, S. 839, the High-speed Ground Transportation Development Act of 1994.

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

The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 839) to establish a program to facilitate development of high-speed rail transportation in the United States, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) high-speed rail may offer a safe and efficient complement to existing intercity transportation modes in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal financial capital assistance may be required to supplement the financial commitments of State and local governments and the private sector to ensure the development of the infrastructure required for high-speed rail systems;

(8) new technologies and, particularly, defense conversion initiatives can facilitate the development of high-speed rail in the United States;

(9) the development of these technologies can expand the competitiveness of United States industry in this country and overseas; and

(10) Federal assistance is required for research and development of high-speed rail technologies for commercial application in high-speed rail service in the United States.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

The Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) is amended by adding at the end the following new titles:

"TITLE X—HIGH-SPEED RAIL ASSISTANCE

"SEC. 1001. DESIGNATION OF CORRIDORS

"(a) PETITION.—The Governor or Governors (or the duly authorized officer or officers) of a State or States that substantially encompass a proposed corridor may petition the Secretary for designation under this section.

"(b) CONTENTS.—Any petition submitted pursuant to subsection (a) shall include such information as the Secretary determines by regulation to be necessary to evaluate the merits of that corridor. Any such petition shall also designate a public agency, for each petitioning State, that is authorized by the State to be responsible for coordination of activities under the high-speed rail program proposed for that corridor, and authorized to receive financial assistance under section 1002 or 1003.

"(c) DETERMINATIONS AND CRITERIA FOR DESIGNATION.—(1) The Secretary is authorized to designate as a designated corridor any corridor where the Secretary determines that—

"(A) the high-speed rail service proposed for the corridor offers the potential for cost-effective intercity passenger transportation as part of the Nation's transportation system; and

"(B) high-speed rail development will not create unfair competition for existing transportation service in operation or under development in such corridor.

"(2) Determinations under paragraph (1)(A) and (B) shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the integration of the designated corridor into metropolitan area and Statewide transportation planning undertaken pursuant to sections 134 and 135 of title 23, United States Code;

"(B) the interconnection of the proposed high-speed rail service with other parts of the Nation's transportation system, including the relationship of the proposed service to intermodal terminals;

"(C) the anticipated effect of the proposed high-speed rail service on the congestion of other modes of transportation;

"(D) any adverse impact on existing mass transit services and other intercity passenger transportation modes in the corridor;

"(E) the effect of the proposed service on the efforts of State and local governments to attain compliance with the Clean Air Act;

"(F) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(G) the estimated level of ridership;

"(H) an evaluation of existing highway-rail grade crossings on the corridor that need to be closed or separated;

"(I) the estimated capital cost of the proposed service, including the cost of closing or separating highway-rail grade crossings in the corridor;

"(J) the extent to which the projected revenues of the proposed service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(K) the level of support and cooperation of any owners and operators of existing rail facilities proposed for improvement in developing the high-speed rail service.

"(d) ADDITIONAL DESIGNATIONS.—(1) The Secretary shall, upon the written request of the State or States that substantially encompass the proposed corridor, designate as a designated corridor—

"(A) any intercity rail corridor designated as a high-speed rail corridor by the Secretary under section 104(d)(2) of title 23, United States Code; or

"(B) any discrete portion of such a corridor.

"(2) The Secretary shall, upon the written request of the State or States that substantially encompass the proposed corridor, designate as a designated corridor any intercity rail corridor, other than the main line of the Northeast Corridor between Washington, District of Columbia, and Boston, Massachusetts, that includes a substantial segment where regularly scheduled rail passenger service operates at speeds in excess of 100 miles per hour as of the date of enactment of the High-Speed Ground Transportation Development Act of 1993.

"(3) Any request under this subsection shall include the designation of a public agency, for each requesting State, that is authorized by the State to be responsible for coordination of activities under the proposed high-speed rail program, and authorized to receive financial assistance under section 1002 or 1003.

"(e) ADMINISTRATIVE EXPENSES.—The Secretary may provide financial assistance to a public agency designated under subsection (b) for up to 80 percent of the administrative expenses incurred by such agency, and determined eligible by the Secretary, in carrying out its responsibilities in connection with the development of a designated corridor. The Secretary shall establish a formula for the allocation of assistance under this subsection.

"SEC. 1002. CORRIDOR MASTER PLANS.

"(a) REQUIREMENT.—An applicant shall prepare and submit to the Secretary, and may periodically amend, a corridor master plan for a corridor, subject to the approval of the Secretary.

"(b) CONTENTS.—A corridor master plan prepared under subsection (a) shall identify a coordinated program of improvements to advance the establishment of high-speed rail service in the corridor, including those improvements not eligible for financial assistance under this title. Such plan shall include—

"(1) identification of how the proposed high-speed rail service relates to State and metropolitan area transportation plans of the affected States and metropolitan areas;

"(2) identification of the specific elements that comprise the program to achieve the high-speed rail service, including their estimated costs, schedules, timing, and relationship with other transportation projects;

"(3) identification of the transportation benefits expected to be derived from each element, including reductions in trip times and increases in speeds;

"(4) identification of specific improvements that comprise each element, a representation of the extent to which such improvements are eligible for financial assistance under this title, and an identification of all proposed sources of funding for such specific improvements;

"(5) identification of anticipated levels of ridership and projections of revenues and expenses associated with the proposed high-speed rail service when completed and for each element undertaken to achieve high-speed service, including estimates of any operating subsidies that would be required and the sources of such subsidies;

"(6) an operating plan identifying the proposed schedule and frequency of the high-speed rail service and the coordination of such service with any other rail operations on the corridor;

"(7) identification of specific improvements that will permit sustained operating speeds substantially in excess of 125 miles per hour, including such improvements as electrification, line straightening, and use of advanced locomotive and rolling stock;

"(8) identification of specific enhancements to passenger convenience, including such enhancements as interline ticketing with other modes of transportation, parking and other means of passenger access, and use of intermodal terminals, particularly at airports;

"(9) consideration of the effect on existing rail passenger service provided in the corridor by the National Railroad Passenger Corporation; and

"(10) such other information as may be required by the Secretary.

"(c) PLAN PREPARATION ASSISTANCE.—The Secretary, by regulation and to the extent the Secretary considers reasonable, may provide financial assistance to an applicant preparing a corridor master plan for up to 50 percent of the costs associated with preparation of such plan incurred after the date of enactment of the High-Speed Ground Transportation Development Act of 1993, including the costs of design, environmental and route selection analysis, and preliminary engineering necessary to support such analyses. The Secretary shall not provide financial assistance under this subsection in an amount that exceeds the amount provided by State and local governments for such preparation costs.

"SEC. 1003. FINANCIAL ASSISTANCE FOR DESIGNATED CORRIDORS.

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant to fund improvements eligible under subsection (c). No financial assistance shall be provided under this title—

"(1) for improvements to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts; or

"(2) for improvements relating to a designated corridor in a State where the State prohibits the expenditure of State funds for such improvements.

"(b) TERMS, CONDITIONS, AND PROCEDURES.—(1) The Secretary shall establish appropriate terms, conditions, and procedures for the provision of financial assistance under this section.

"(2) The Secretary shall not provide financial assistance under subsection (a) for improvements in a designated corridor unless the Secretary finds that the applicant is in compliance with the requirements of section 1005(a) relating to an arrangement for insurance coverage.

"(c) ELIGIBLE IMPROVEMENTS.—Improvements eligible for financial assistance under subsection (a) shall be those improvements, other than the acquisition of rolling stock, that are necessary to facilitate the development of high-speed rail service, including—

"(1) final engineering and design;

"(2) site specific environmental analyses and environmental mitigation;

"(3) acquisition of right-of-way and related property;

"(4) acquisition, construction, rehabilitation, upgrading, or replacement of roadbed, structures, track, guideway, signal and communications systems, electric traction systems, propulsion or guidance systems incorporated as part of a guideway, maintenance-of-way facilities, maintenance-of-equipment facilities, private highway-rail grade crossings (including payments to property owners to close such crossings where appropriate) and public highway-rail grade crossings to the extent authorized under subsection (f)(3), and those portions of terminals and stations directly related to the operation of the high-speed rail service.

Improvements that are eligible for funding under other Federal transportation programs shall not be eligible for financial assistance under subsection (a).

"(d) MINIMUM FUNDING.—Financial assistance may not be provided under subsection (a) unless such assistance enables the completion of at least one full element of a program to achieve high-speed rail service.

"(e) PRIVATE FUNDING.—In providing financial assistance under subsection (a), the Secretary shall ensure that the element or elements for which such assistance is provided include the maximum practicable private funding.

"(f) FUNDING PROPORTIONS.—(1) In providing financial assistance under subsection (a), the Secretary may provide financial assistance for up to 80 percent of the cost of specific eligible improvements. No less than 20 percent of the costs of such improvements shall be provided by State or local funds.

"(2) The Secretary shall not provide financial assistance to an applicant under subsection (a) in an amount which exceeds the amount provided for the development of the designated corridor by State and local governments, and other Federal transportation programs, after April 29, 1993.

"(3) The Secretary may provide financial assistance to an applicant under subsection (a) for a public highway-rail grade crossing improvement that is part of the development of a designated corridor only if such improvement was not, as of the date of enactment of the High-Speed Ground Transportation Development Act of 1993, included as

a high priority for highway-rail grade crossing improvement in the State to be funded with funds apportioned to the State under section 104(b)(3) of title 23, United States Code, and allocated under section 133(d)(1) of such title.

"(g) CRITERIA.—In determining whether to provide financial assistance to fund an element under subsection (a), the Secretary shall consider how the element meets the criteria identified in section 1001(c), the information contained in the relevant corridor master plan, commitments by State and local governments to fund any increases in the operating deficit of the National Railroad Passenger Corporation with respect to that Corporation's operation over the designated corridor that result from the completion of the element, and such other information as the Secretary considers appropriate.

"(h) FINAL SAFETY REGULATIONS; DISBURSEMENT LIMITATION.—(1) The Secretary shall issue final regulations concerning the safety of high-speed rail service that address, at a minimum, the following subjects:

"(A) rail vehicle integrity;

"(B) passenger and crew protection and emergency evacuation;

"(C) rail vehicle-track interaction;

"(D) separation and closure of highway-rail grade crossings;

"(E) necessary train control and signaling systems;

"(F) the operation of high-speed and conventional passenger trains, commuter trains, and freight trains in the same corridor (including the means for ensuring safety in a corridor while preserving the existing level of rail service generally); and

"(G) protection against undetected incursions into the right-of-way.

"(2) Upon disbursing any funds for improvements under subsection (c)(4), the Secretary shall publish a notice in the Federal Register—

"(A) certifying that any final safety standards that are essential to ensure that those specific improvements are consistent with a safe operating environment for high-speed rail service are in effect; and

"(B) specifying what those standards are.

"(i) EARLY ASSISTANCE.—The Secretary may provide financial assistance under subsection (a) for an element not contained in a corridor master plan prepared under section 1002 only if such financial assistance is provided, with respect to a designated corridor, before the expiration of 30 months after the date of enactment of the High-Speed Ground Transportation Development Act of 1993.

"SEC. 1004. HIGH-SPEED RAIL TECHNOLOGY DEVELOPMENT.

"(a) AUTHORITY.—The Secretary is authorized to undertake research and development of high-speed rail technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

"(c) DEFENSE CONVERSION.—The Secretary shall give a high priority to proposals under this section which encourage civilian application to high-speed rail of defense-related technologies.

"SEC. 1005. INSURANCE REQUIREMENTS.

"(a) INSURANCE CONTRACT AND CERTIFICATION.—(1) Before financial assistance may be provided under section 1003 for a designated corridor, the applicant shall—

"(A) enter into an arrangement for the provision of liability insurance coverage, in an amount (subject to subsection (c)) of $500,000,000 per occurrence, to compensate for any and all loss from compensatory and punitive damage claims, against such applicant, the operator of the proposed high-speed rail service, or the owners and operators of the track and other rail facilities that will be used for such high-speed rail service, for death, bodily injury, or loss of or damage to property resulting from an accident or incident involving—

"(i) on designated corridors having intercity rail passenger service on October 1, 1993, operation of a train in excess of maximum speeds for intercity passenger trains in timetables in effect on October 1, 1993, on the applicant's corridor;

"(ii) on designated corridors having rail service but no rail passenger service on October 1, 1993, operation of a train in excess of maximum speeds for passenger trains permitted on the applicant's corridor under section 213.9 of title 49, Code of Federal Regulations, on October 1, 1993; and

"(iii) on designated corridors for which new rail lines are being built, operation of rail passenger service, regardless of the nature of the conduct causing such death, bodily injury, loss, or damage; and

"(B) certify to the Secretary that the applicant has entered into such arrangement for insurance coverage.

"(2) For purposes of this section, the term 'insurance coverage'—

"(A) as applicable to the primary layer of insurance up to $25,000,000 per occurrence, includes self-insurance by any person insured under the applicable coverage and mutual indemnification agreements among any combination of such persons; and

"(B) as applicable to layers of insurance above $25,000,000 per occurrence, includes self-insurance and mutual indemnification agreements that are agreed to by all persons required to be insured under the applicable coverage.

Such term includes self-insurance or mutual indemnification agreements described under subparagraphs (A) or (B) only to the extent authorized under the law of any State in which the applicable rail service is operated.

"(b) RESTRICTION ON OPERATIONS.—On designated corridors upgraded with assistance provided under section 1003, unless insurance coverage as described in subsection (a) is in force, rail passenger service shall not—

"(1) on designated corridors having intercity rail passenger service October 1, 1993, be operated in excess of maximum speeds for intercity passenger trains in timetables in effect on October 1, 1993, on the applicant's corridor;

"(2) on designated corridors having rail service but no rail passenger service on October 1, 1993, be operated in excess of maximum speeds for passenger trains permitted on the applicant's corridor under section 213.9 of title 49, Code of Federal Regulations; and

"(3) on designated corridors for which new rail lines are being build, be operated.

"(c) INTERSTATE COMMERCE COMMISSION JURISDICTION.—Upon the petition of a person insured under insurance coverage purporting to be as described in subsection (a), the Commission shall, within 90 days after its receipt of such petition, determine the adequacy of such coverage. The petitioner shall have the burden of proving, by a preponderance of the evidence, the inadequacy of such insurance coverage (including the sufficiency of the amount specified in subsection (a)) with respect to the corridor for high-speed rail service is proposed and with respect to the potential liability of the petitioner. In making its determination, the Commission shall employ the usual and customary underwriting methodology of insurers of rail activities, taking into account the speeds at which passenger trains are proposed to operate in the corridor, any safety features, rules, and procedures created in connection with such proposed high-speed rail service, and the existence and applicability of other insurance coverage for the petitioner. In no event shall the Commission provide for a lower level of insurance coverage than is provided by subsection (a). In the event the Commission determines that insurance coverage is inadequate, the Commission shall determine the level of insurance coverage that is adequate. The applicant shall then provide coverage at that level.

"(d) MULTIPLE CORRIDORS.—Nothing in this section shall preclude respective applicants from jointly procuring the insurance coverage required pursuant to subsection (a) so that such insurance covers more than one corridor.

"SEC. 1006. BUY AMERICA REQUIREMENTS.

"(a) GENERAL RULE.—Except as provided in subsection (b), an applicant receiving financial assistance under section 1003 shall ensure that the articles, materials, and supplies purchased with such financial assistance are substantially all of United States manufacture or production. An applicant that fails to meet the requirement of this section may not receive further assistance under section 1003.

"(b) EXEMPTION.—The Secretary may grant an exemption from this section to an applicant with respect to the purchase of articles, materials, or supplies, or may grant an exemption for any improvement incorporating such articles, materials, or supplies, if the Secretary determines that—

"(1) the application of this section is inconsistent with the public interest;

"(2) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable;

"(3) such articles, materials, or supplies are not produced or manufactured in the United States in sufficient and reasonably available quantities or of a satisfactory quality;

"(4) such articles, materials, or supplies cannot be purchased and delivered in the United States within a reasonable time; or

"(5) such articles, materials, or supplies are produced or manufactured in a country that the President has determined, in its government procurement contracts, treats articles, materials, or supplies produced or manufactured in the United States on a national treatment basis.

"(c) EXCEPTION.—This section shall not apply with respect to an element in any case in which the total cost of the articles, materials, or supplies purchased in connection with such element with financial assistance provided under section 1003 is less than $1,000,000.

"SEC. 1007. LABOR STANDARDS.

"(a) REQUIREMENT TO PROVIDE PROTECTIVE ARRANGEMENTS.—A recipient of Federal assistance under section 1003, for improvements described in section 1003(c)(4), shall provide fair and equitable arrangements to protect the interests of rail employees who may be affected by such assistance. Such arrangements shall include the guidelines issued by the Secretary of Labor under subsection (c). The Secretary shall be satisfied

that the arrangements include the Secretary of Labor's guidelines before providing financial assistance under section 1003.

"(b) OPERATOR RESPONSIBILITY FOR COSTS.—Where State law prohibits the recipient of Federal assistance under section 1003 from paying the costs of protecting the interests of rail employees in accordance with this section, such costs shall be the responsibility of a beneficiary of such assistance formally identified by the State as having such responsibility or, in the absence of such an identification, the operator of high-speed rail service operating within the applicable designated corridor.

"(c) ISSUANCE OF GUIDELINES.—The Secretary of Labor shall, within 90 days after the date of enactment of this title, issue guidelines on what arrangements are needed to satisfy this section. The guidelines shall be as protective of employee interests as the requirements of section 405(b) of the Rail Passenger Service Act (45 U.S.C. 565(b)) and shall include provisions regulating subcontracting of work funded by financial assistance provided under section 1003.

"SEC. 1008. APPLICABILITY OF OTHER LAWS.

"The operator of a high-speed rail service operating in interstate commerce or over a rail line operated in interstate commerce, within a designated corridor that receives financial assistance under section 1003, shall, with respect to such high-speed rail service, be subject to applicable laws with respect to such service, including, but not limited to, the Railway Labor Act (45 U.S.C. 151 et seq.), the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

"SEC. 1009. DEFINITIONS.

"For purposes of this title—

"(1) the term 'applicant' means a public agency designated under section 1001(b) or (d)(3), or a group of such public agencies, seeking financial assistance under this title for development of a designated corridor;

"(2) the term 'corridor' means an existing or proposed route for high-speed rail serving two or more major metropolitan areas in the United States;

"(3) the term 'designated corridor' means a corridor designated by the Secretary under section 1001;

"(4) the term 'element' means a discrete portion of a program to develop a designated corridor that has a demonstrable intercity ground transportation benefit independent of other improvements to such corridor;

"(5) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(6) the term 'high-speed rail' has the meaning given such term under section 511(n) of this Act;

"(7) the term 'improvement' means a discrete activity that contributes to the development of the infrastructure of a designated corridor;

"(8) the term 'rolling stock' means locomotives and rail passenger cars;

"(9) the term 'State' means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

"(10) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

SEC. 4. EXEMPTIONS FOR NORTHEAST CORRIDOR IMPROVEMENT PROJECT.

Section 705 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 855) is amended by adding at the end the following new subsection:

"(c) APPLICABLE EXEMPTIONS AND PROCEDURES.—For the purpose of any State or local requirement for permit or other approval for construction of any improvement undertaken by Amtrak as part of the Northeast Corridor Improvement Project, the exemptions and procedures applicable to a project undertaken by the Federal Government or an agency thereof shall apply.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) HIGH-SPEED RAIL ASSISTANCE.—There are authorized to be appropriated to the Secretary of Transportation for the national high-speed rail assistance program authorized under sections 1001, 1002, and 1003 of the Railroad Revitalization and Regulatory Reform Act of 1976—

(1) $96,000,000 for fiscal year 1994;
(2) $166,000,000 for fiscal year 1995;
(3) $183,000,000 for fiscal year 1996;
(4) $238,000,000 for fiscal year 1997; and
(5) $299,000,000 for fiscal year 1998.

(b) TECHNOLOGY DEVELOPMENT.—There are authorized to be appropriated to the Secretary of Transportation for high-speed rail technology development authorized under section 1004 of the Railroad Revitalization and Regulatory Reform Act of 1976—

(1) $15,000,000 for fiscal year 1994;
(2) $15,000,000 for fiscal year 1995;
(3) $15,000,000 for fiscal year 1996;
(4) $15,000,000 for fiscal year 1997; and
(5) $15,000,000 for fiscal year 1998.

(c) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a) and (b), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under title X of the Railroad Revitalization and Regulatory Reform Act of 1976, as added by section 3 of this Act.

(d) ADMINISTRATIVE EXPENSES OF PUBLIC AGENCIES.—Of the amounts authorized to be appropriated under subsection (a), the Secretary of Transportation may reserve up to 1 percent for the purpose of providing financial assistance under section 1001(e).

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

SEC. 6. GRADE CROSSING SIGNAL DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) by redesignating the subsections after the first subsection (r) as subsections (s), (t), (u), and (v), respectively; and

(2) by adding at the end the following new subsection:

"(w) GRADE CROSSING SIGNAL DEVICES.—The Secretary shall, within 1 year after the date of enactment of this subsection, establish nationally uniform standards regarding the allocation of responsibility for selection and installation of signal devices at public railroad-highway grade crossings.".

SEC. 7. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, d/b/a the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825, 831).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

AMENDMENT NO. 2570

(Purpose: To authorize appropriations for high-speed ground transportation)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. EXON, proposes an amendment numbered 2570.

Mr. FORD. 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:

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Ground Transportation Development Act of 1994".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—

The Congress finds that—

(1) high-speed rail service offers safe transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of technologies for commercial application in high-speed rail service in the United States.

(b) PURPOSE.—The purpose of this Act is to encourage farsighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity travel corridors.

SEC. 3. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Part C of subtitle IV of title 49, United States Code (relating to passenger transportation) is amended by adding at the end the following new chapter:

"CHAPTER 251—HIGH-SPEED RAIL ASSISTANCE

"§ 25101. Corridor planning

"(a) AUTHORITY.—The Secretary may provide financial assistance to an applicant, based upon the criteria set forth in subsection (d) of this section, to fund corridor planning under subsection (b)(1) of this section.

"(b) ELIGIBLE ACTIVITIES.—

"(1) A corridor planning activity is eligible for financial assistance under subsection (c) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) economic analyses, including ridership, revenue and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) interface with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening, grade crossing closings, and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, interface with other modes of transportation, parking and other means of passenger access, track, signal, station and other capital works, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CORRIDOR PLANNING ASSISTANCE.—

"(1) The Secretary may provide under this subsection financial assistance to an applicant for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

"(2) No less than twenty percent of publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources cannot include funds from any Federal program.

"(d) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of applicants for financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(A) the relationship or inclusion of the corridor in the Secretary's national high-speed ground transportation policy;

"(B) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 miles per hour or greater;

"(C) the integration of the corridor into metropolitan area and Statewide transportation planning;

"(D) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(E) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(F) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act;

"(G) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(H) the estimated level of ridership;

"(I) the estimated capital cost of corridor improvements, including the cost of closing, improving or separating highway-rail grade crossings;

"(J) rail transportation employment impacts;

"(K) community economic impacts;

"(L) the extent to which the projected revenues of the high-speed rail service to be planned, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses; and

"(M) whether a route has been selected, specific improvements identified, and capacity studies completed.

"§ 25102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary is authorized to undertake activities for the improvement, adaption, and integration of technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized in subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency or the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized in subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"§ 25103. Definitions.

"For purposes of this chapter—

"(1) the term 'applicant' means a public agency, or a group of such public agencies, seeking financial assistance under this title;

"(2) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(3) the term 'high-speed rail' means rail passenger transportation expected to reach and maintain speeds of 125 miles per hour or greater;

"(4) the term 'publicly funded costs' means the costs funded after April 29, 1993, by Federal, State and local governments;

"(4) the term "State" means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States;

"(5) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

"§ 25104. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.".

SEC. 4. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus & Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR FY 1995.—There is authorized to be appropriated to the Secretary of Transportation $29,000,000 for financial assistance authorized under sections 25101 and 25102 of title 49, United States Code.

(b) AUTHORIZATION FOR FY 1996.—There is authorized to be appropriated to the Secretary—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(c) AUTHORIZATIONS FOR FY 1997.—There is authorized to be appropriated to the Secretary of Transportation—

(1) $40,000,000 for financial assistance authorized under section 25101 of title 49, United States Code; and

(2) $30,000,000 for financial assistance authorized under section 25102 of title 49, United States Code.

(d) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of the amounts authorized to be appropriated under subsections (a), (b) and (c), the Secretary of Transportation may reserve the funds necessary for payment of the administrative expenses incurred by the Secretary in carrying out the Secretary's responsibilities under chapter 251 of title 49, United States Code.

(e) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

Mr. EXON. Mr. President, I am pleased to offer a compromise substitute amendment to the High-Speed Ground Transportation Act. I was pleased to work on this compromise with the Secretary of Transportation and the chairman of the Senate Commerce Committee. This legislation focuses attention and resources on high-speed rail research and corridor planning as well as incorporates the vision for high-speed rail into the comprehensive national transportation plan.

Admittedly, this proposal is a scaled-back version of the bill which won bipartisan, unanimous Senate Commerce Committee support. While I am very proud of that more comprehensive bill, the compromise before the Senate comes to terms with constraints of the Senate Calendar, the concerns of my colleagues, and the Federal budget. As the author of the Exon-Grassley budget amendment, I frankly welcome making tough choices of this nature.

The compromise plan lengthens the horizon for high-speed rail deployment and defers some questions which will arise with construction, such as liability and fair treatment for labor. These issues must eventually be addressed. I predict that these problems will be addressed in a manner very similar to the high-speed rail bill which won the support of the Senate Commerce Committee last year.

That being said, I am pleased with the substitute amendment. It keeps the vision of high-speed rail service and increased rail employment alive. It focuses in on the key precursors to construction as the administration develops transportation strategy for the next century.

After 12 long years of fighting to defend subsistence investments in Amtrak, the significance of this day can not be underestimated. With the adoption of this legislation, the Nation enters a new era of rail transportation. Just as ribbons of steel and billows of steam helped unite a young America in the 1800's, sleek trains and advanced technology will carry a modern America into a prosperous new century.

Rail transportation is safe, fuel efficient, and environmentally friendly. Today's investment in high-speed rail will pay significant dividends in the next century. High-speed rail holds great promise for reducing traffic congestion on the ground and in the air, boosting employment, and regaining America's edge in rail and maglev technology.

As a Senator from the great State with a long, rich rail history, I am especially proud to help create a new American industry. High-speed rail and maglev service, technology research and manufacturing will create good American jogs at good wages. This initiative also holds a key to converting defense industries into civilian powerhouses. It also creates an opportunity for America to become a player in a major export sector. In recent years European and Japanese companies have won significant contracts for high-speed rail service in Korea, China, and elsewhere.

Because American passenger rail service has been starved for investment for so long, by and large, American firms were not even players in these major export opportunities. A major step is being taken to at last join the fray.

Even for States which will not see high-speed rail service or related manufacturing jobs in the near future, the benefits of this legislation will be real and significant. Modern high-speed rail service will help make airport capacity problems at high-density airports more manageable. Presently, commuter service consumes a significant number of limited landing slots at America's four most popular airports. As high-speed rail attracts short and medium distance travelers, limited airport landing slots will become more available for long distance travelers. In other words, it will become easier for Nebraskans to fly to destinations such as Chicago, New York, and Washington, DC.

For States like Nebraska, with many railroad retirees, the future of those seniors will be made more secure with the revitalization of railroad employment and the increased contributions to the railroad retirement system that employment brings. For the conventional rail industry, this high-speed rail will bring new technology development, grade crossing elimination, and infrastructure improvements which will enhance all passenger and freight service.

In summary, Mr. President, when it comes to American high-speed rail and maglev, it is all aboard.

I encourage my colleagues to support this landmark legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2570) was agreed to.

Mr. FORD. I move to reconsider the vote, and to lay that on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the committee substitute, as amended, be agreed to and the bill, as amended, be read the third time.

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

The committee amendment, as amended, was agreed to.

The bill was read the third time.

Mr. GORTON. Mr. President, I am pleased to have another opportunity to express my strong support for the High Speed Rail Development Act.

I am especially excited that Washington State directly benefits from its implementation. Having one of the five national high-speed rail corridors extending from Vancouver, BC to Eugene, Or will alleviate many of the clogged highways in Washington State.

I am delighted that action is being taken to expand our Nation's use of new transportation technology. I have heard from numerous frustrated Washington State residents about the need for alternative cost-effective intercity passenger service. The development of the high-speed rail corridors is exactly the answer.

High-speed rail will offer a safe and efficient complement to existing intercity transportation modes. It has a distinct environmental advantage over other forms of intercity transportation and the Northwest will clearly benefit from its development.

I would like to especially thank my colleague in the House, Representative AL SWIFT, who has been a tireless advocate for improved Amtrak and high speed rail service in the Northwest. I have worked with Representative SWIFT on language that is very important to the development of our corridor in the Northwest and I am very pleased that the committee has included my suggested amendments to this legislation.

Mr. HOLLINGS. Mr. President, today we are considering S. 839, the High-Speed Ground Transportation Development Act, as amended. What is before the Senate is an amendment in the nature of a substitute, offered by Senator EXON to the bill reported by the Commerce Committee. I support this substitute amendment.

I have endorsed for some time a federal role in the promotion of high-speed ground transportation development in the United States. I view the Federal role as important in this area for two reasons. First, Federal support for research and development of new high-speed ground transportation technologies can enhance our Nation's economic and technology competitiveness and manufacturing base. Second, I believe that establishing new high-speed surface transportation systems to serve the national transportation needs of our country represents an important policy objective for our Nation.

The technologies that underlie high-speed rail systems can improve the safety and efficiency of our surface transportation system. Moreover, these technologies can lead to a reduction in traffic congestion, a favorable impact on our environment, and the conservation of energy resources.

Of course, this legislation by itself will not provide us with all of these benefits but this amendment is a first and very necessary step to that end. It allows the planning for high-speed rail to begin. It allows the Federal Government, in partnership with the states, to develop a workable program for high-speed rail, beginning with the basic determination of which of the Nation's transportation corridors can support high-speed rail systems. Finally, it will help to ensure that when high-speed rail is a reality, it will meet the national transportation needs and be cost-effective. I urge the Senate to support the substitute amendment offered by Senator EXON.

HIGH-SPEED GROUND TRANSPORTATION DEVELOPMENT ACT OF 1993

Mr. FORD. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4867, the House companion now at the desk and that all after the enacting clause be stricken and the text of S. 839, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider be laid on the table, the title be appropriately

amended; further, that upon disposition of H.R. 4867, the Senate measure be indefinitely postponed.

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

So the bill (H.R. 4867), as amended, was passed.

The title was amended so as to read: "A bill to authorize appropriations for high-speed ground transportation, and for other purposes."

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., Friday, August 19; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9:30, with Senators permitted to speak therein for up to 5 minutes each; that upon disposition of the conference report accompanying H.R. 4603, the Senate then resume consideration of S. 2351, the Health Security Act.

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

RECESS UNTIL FRIDAY, AUGUST 19, 1994, AT 9 A.M.

Mr. FORD. If there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:09 p.m., recessed until Friday, August 19, 1994, at 9 a.m.